

2014 KENTUCKY GENERAL ASSEMBLY

**EFFECTIVE DATE OF MOST NEW LEGISLATION IS
JULY 15, 2014**

**Unless noted as different in individual statutes*

**NOTE - CERTAIN BILLS ARE EMERGENCY LEGISLATION AND
EFFECTIVE IMMEDIATELY UPON THE SIGNATURE OF THE
GOVERNOR (SEE INDIVIDUAL STATUTES).**

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STATUTE NUMBERS WHEN THEY BECOME AVAILABLE**

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SENATE

SENATE BILL 36 REDEMPTION

Section 1. KRS 426.530 is amended to read as follows:

- (1) If real property sold in pursuance of a judgment or order of a court, other than an execution, does not bring two-thirds (2/3) of its appraised value, the defendant and his representatives may redeem it within six (6) months~~a year~~ from the day of sale, by paying the original purchase money and ten percent (10%) per annum interest thereon.
- (2) The defendant shall pay the redemption money to the clerk of the court in which the judgment was rendered or the order of sale was made. Upon payment by the defendant, the master commissioner shall convey the real property to the defendant.
- (3) When the right of redemption exists, the purchaser shall receive an immediate writ of possession and a deed containing a lien in favor of the defendant, reflecting the defendant's right to redeem during the statutory period.

SENATE BILL 45 SEARCH WARRANTS

SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

KRS 455.170 Electronic application for and issuance of search warrant – Conditions.
The Supreme Court of Kentucky may, by rule, authorize a process allowing a search warrant to be applied for and issued electronically if the process meets the requirements of Section 10 of the Kentucky Constitution, requires the production of a paper copy of the warrant at the time it is served, and otherwise complies with any other requirements for search warrants generally, including those pertaining to their filing, execution, and return.

SENATE BILL 65 MENTAL HEALTH RECORDS

Section 1. KRS 210.235 is amended to read as follows:

KRS 210.235 Confidential nature of records – Conditions under which records may be disclosed.

All applications and requests for admission and release, and all certifications, records, and reports of the Cabinet for Health and Family Services which directly or indirectly identify a patient or former patient or a person whose hospitalization has been sought, shall be kept confidential and shall not be disclosed by any person, except insofar as:

- (1) The person identified or his guardian, if any, shall consent; or
- (2) Disclosure may be necessary to carry out the provisions of the Kentucky Revised Statutes, and the rules and regulations of cabinets and agencies of the Commonwealth of Kentucky; or
- (3) Disclosure may be necessary to comply with the official inquiries of the departments and agencies of the United States government; or
- (4) **Disclosure may be necessary for:**
 - (a) Treatment of the patient by any health care provider involved in the patient's care;**
 - (b) Treatment, payment, or health care operations under the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including disclosure**

between health care providers through an electronic health information exchange or network; or

(c) Participation by health care providers through an electronic health information exchange or network for the purpose of meeting the requirements of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, and its related federal regulations; or

(5) A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and failure to make such disclosure would be contrary to the public interest. Nothing in this section shall preclude the disclosure, upon proper inquiry of the family or friends of a patient, of information as to the medical condition of the patient.

SENATE BILL 66 BOATING LAW ENFORCEMENT

Section 1. KRS 235.310 is amended to read as follows:

(1) The commissioner of the Department of Fish and Wildlife Resources shall designate officers and employees of the department to enforce the provisions of this chapter, and these officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the Commonwealth. In enforcing the provisions of this chapter, these officers and all other peace officers of the Commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, ~~but not~~ shall only have the right to stop or enter upon ~~all~~ boats on such waters if the officer has a reasonable and articulable suspicion that a violation of the Kentucky Revised Statutes has occurred. The department may conduct periodic inspections of marine sanitation devices according to a regular inspection schedule to be determined by the department ~~for the purpose of examining their registration documents and inspect their marine sanitation device to determine if it is the proper kind for the water body where the boat is kept or operated and that the device is properly operating~~. To conduct the marine sanitation device inspection the department officers and employees may require a motorboat owner to flush a dye through the marine toilet in the presence of the department officers or employees or use other appropriate measures to inspect the device. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the Commonwealth.

(2) The officers designated in subsection (1) of this section shall be authorized to possess and use radio communication equipment capable of receiving and transmitting on state police radio frequency. The Department of Kentucky State Police shall cooperate with the department for the purpose of radio communication of these officers when any assistance is necessary.

Section 2. KRS 235.285 is amended to read as follows:

KRS 235.285 Personal watercraft --Use for towing – Prohibitions on use without personal flotation device or self-circling capability – General prohibitions of *vessel* operation – Exceptions – Supervision of minors.

(1) A personal watercraft may be used to tow individuals engaged in waterskiing or similar activities if it has adequate seating capacity and an observer on board to monitor the progress of the person being towed, or if it is equipped with a rearview mirror with a minimum field of vision of one hundred sixty (160) degrees mounted so that the operator can observe the activities of the person being towed.

(2) A person shall not operate a personal watercraft on public waters unless every individual operating or riding on the personal watercraft is wearing a personal flotation device that is approved by the United States Coast Guard under 46 C.F.R. sec. 160, as it may be amended or renumbered.

(3) A personal watercraft that does not have self-circling capability shall not be operated on public waters unless:

(a) The personal watercraft is equipped with a lanyard-type engine cutoff switch; and

(b) The lanyard is attached to the person, clothing, or personal flotation device of the operator.

(4) A ~~vessel~~~~personal watercraft or motorboat~~ operated on public waters shall be operated at all times according to the provisions of this chapter and the administrative regulations promulgated hereunder["Rules of the Road" in the Inland Navigation Rules, 33 C.F.R. pt. 83]. A

personal watercraft or motorboat shall be operated at all times in a reasonable and prudent manner so as not to endanger human life, human physical safety, or property. A person shall not do any of the following while operating a ~~vessel~~~~personal watercraft or motorboat~~ on public waters:

(a) Weave through congested watercraft traffic in a way that endangers human life, human physical safety, or property;

(b) Follow a watercraft that is towing an individual on water skis, a surfboard, or a water sport device in a way that endangers human life, human physical safety, or property;

(c) Jump the wake of another watercraft in a way that endangers human life, human physical safety, or property;

(d) Cut between a boat and the individual or individuals being towed by the boat;

(e) Cross paths with another watercraft when visibility around the other watercraft is so obstructed as to endanger human life, human physical safety, or property; or

(f) Steer a personal watercraft or motorboat toward an object or individual in the water and turn sharply at close range in a way that endangers human life, human physical safety, or property.

(5) A person shall not operate a personal watercraft on public waters at any time between sunset and the following sunrise.

(6) A person shall not operate a ~~vessel~~~~motorboat or personal watercraft~~ within fifty (50) feet of a commercial motor vessel and its tow which is in operation on a waterway, except if the operator of the commercial motor vessel has given his or her consent.

(7) (a) A person under twelve (12) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth.

(b) Effective January 1, 1999, a person twelve (12) years of age through seventeen (17) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth unless the person is in possession of a safe boating certificate or is accompanied, on board, by a person eighteen (18) years of age or older or in possession of a safe boating certificate.

(c) While operating a motorboat or a personal watercraft over ten (10) horsepower on the public waters of the Commonwealth, nonresidents twelve (12) years of age through seventeen (17) years of age shall have in their possession a Kentucky safe boating certificate or a recognized and equivalent boat operator licensing or safe boating certificate from another state or country.

(8) Subsections (1) to (6) of this section shall not apply to:

(a) A performer engaged in a professional exhibition; or

(b) A person participating in a regatta, a race, a marine parade, a tournament, or an exhibit that is held in compliance with administrative regulations adopted by the department.

(9) The parent, legal guardian, or other adult who has direct supervision over a minor under the age of eighteen (18) shall not knowingly authorize or permit the minor to operate a motorboat or

personal watercraft in violation of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

KRS 235.312 Annual report on law enforcement officer training and changes in law enforcement practices and interactions with public.

On or before October 31 of each year, the Department of Fish and Wildlife Resources shall submit a report to the Legislative Research Commission, for referral to the appropriate interim joint committee, detailing the measures that the department has undertaken during the past year to train its law enforcement officers in the areas of enforcement policy, hospitality toward participants in outdoor activities regulated by the department, and tourism promotion. The report shall also include any changes that the department implemented during the past year regarding its law enforcement practices and interactions with the public.

Section 4. This Act shall be known and may be cited as the Boater Freedom Act.

SENATE BIL 83 ALCOHOLIC BEVERAGES

Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

* * * * *

(12) "Cider" means any fermented fruit-based beverage containing **seven percent (7%) or** more ~~than one-tenth of one percent (0.1%)~~ alcohol by volume and includes hard cider and perry cider;

(13) "City administrator" means city alcoholic beverage control administrator;

(14) **"Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;**

~~(15)~~ "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;

INTERVENING DEFINITIONS RENUMBERED

~~(25)(24)~~ "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales **through a** ~~by a KRS 242.050, KRS 242.125, or other~~ local option election **held under KRS Chapter 242,**

INTERVENING DEFINITIONS RENUMBERED

~~(32)(31)~~ "Limited restaurant" means:

(a) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross ~~receipts~~ **income** from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory under KRS 242.1244(2); or

(b) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross ~~receipts~~ **income** from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in

conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244;

~~(33)~~~~(32)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider.

INTERVENING DEFINITIONS RENUMBERED

(60) "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;

~~(61)~~~~(59)~~ "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050, 242.125, or 242.1292 on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?"

~~(62)~~~~(60)~~ "Wholesale sale" means a sale to any person for the purpose of resale;

~~(63)~~~~(61)~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;

~~(64)~~~~(62)~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider~~includes ciders, perry, or sake~~; and

~~(65)~~~~(63)~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

Section 2. KRS 242.123 is amended to read as follows:

(1) (a) To promote economic development and tourism in a county containing a wet or moist city, with the exception of a moist territory in accordance with KRS ~~242.1292(1)~~~~242.1292~~, a local option election for the limited sale of alcoholic beverages may be held in any precinct containing a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course, notwithstanding any other provisions of the Kentucky Revised Statutes.

* * * * *

Section 5. KRS 243.034 is amended to read as follows:

(1) A limited restaurant license may be issued to an establishment meeting the criteria established in subsection (32) of Section 1 of this Act~~KRS 241.010(31)~~ as long as the establishment is within:

(a) Any wet territory; or

(b) Any moist precinct that has authorized the sale of alcoholic beverages under KRS 242.1244.

(2) A limited restaurant license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, and malt beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell distilled spirits, wine,

or malt beverages by the package.

(3) The holder of a limited restaurant license shall maintain at least seventy percent (70%) of its gross ~~receipts~~~~income~~ from the sale of food and maintain the minimum applicable seating requirement required for the type of limited restaurant license.

(4) (a) A limited restaurant as defined by subsection (32)(b) of Section 1 of this Act~~KRS 241.010(31)(b)~~ shall:

1. Only sell distilled spirits, wine, and malt beverages incidental to the sale of a meal; and
2. Not have an open bar and shall not sell distilled spirits, wine, and malt beverages to any person who has not purchased or does not purchase a meal.

(b) Distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine, and malt beverages are served after the meal is ordered and no more than one-half (1/2) hour after the meal is completed.

Section 6. KRS 243.042 is amended to read as follows:

(1) A qualified historic site license may be issued to any establishment meeting the criteria established in KRS 241.010 as long as the establishment is within:

- (a) Any wet territory; or
- (b) Any precinct that has authorized the sale of alcoholic beverages under KRS 242.1242.

(2) A qualified historic site license shall authorize the licensee to:

- (a) Sell distilled spirits, wine, and malt beverages by the drink at one (1) or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037;
- (b) Sell distilled spirits, wine, and malt beverages by the drink to patrons at public or private functions held on the premises; and
- (c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.088, 243.250~~;~~~~243.280~~, and 244.310.

(3) Nothing in this section exempts the holder of a qualified historic site license from the provisions of KRS Chapters 241, 242, 243, and 244, or from any rules of the board as established by administrative regulations, except as expressly stated in this section.

Section 7. KRS 243.050 is amended to read as follows:

(1) Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue an extended hours supplemental license for the retail sale of alcoholic beverages by the drink to the holder of an NQ1 retail drink license,~~+~~~~or~~ a qualified historic site license, or a license located in a commercial airport. The department may, by administrative regulation or special conditions of an extended hours supplemental license, establish the days when the supplemental license will be valid, including Sundays after 1 p.m., and establish such restrictions on the use of the license as will ensure that it will be primarily for the benefit of the convention business, the horse racing industry, passengers at large commercial airports and rail systems, the automobile racing industry, and qualified historic sites.

(2) (a) A licensee located in territory which has authorized Sunday retail distilled spirits and wine drink sales under KRS 244.290 or 244.295, either by local option election or by local government ordinance, shall obtain a Sunday retail drink license in order to sell distilled spirits and wine on Sunday.

(b) A retail licensee holding a Sunday retail drink license is authorized to remain open and sell distilled spirits and wine by the drink for consumption on the premises only during those times and

hours permitted by local government ordinance.

Section 8. KRS 243.072 is amended to read as follows:

- (1) This section shall apply to any wet city of the fourth class or county containing a wet city of the fourth class, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.
- (2) Upon a determination by the legislative body that an economic hardship exists within the wet city or county and that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.
- (3) Nonquota type 2 (NQ2) retail drink licenses authorizing all types of alcoholic beverage sales shall only be issued to hotels and restaurants having dining facilities for not less than fifty (50)~~one hundred (100)~~ persons.
- (4) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.060 or 243.070, or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of this section, except that any administrative regulation adopted shall conform to the requirements of KRS 241.190.

Section 9. KRS 243.075 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 243.060 and 243.070, in any city of the third or fourth class in which the discontinuance of prohibition is effective by virtue of a local option~~that is wet or moist through an~~ election held under KRS Chapter 242~~242.125~~, the governing body of the city and the governing body of the county containing a city of the third or fourth class is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each budget period at a percentage rate as shall be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
 - (a) A credit against a regulatory license fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070; and
 - (b) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (2) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.060 or 243.070, a city or county that is moist through a local option election held under KRS 242.1244, or that issues licenses~~qualifies~~ under KRS 243.072 may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell distilled spirits, wine, or malt beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.

Section 10. KRS 243.082 is amended to read as follows:

KRS 243.082 Nonquota type 1 or NQ1 retail drink license – Issuance to a convention center or convention hotel complex, horse racetrack, automobile racetrack, railroad system, or commercial airline system or charter flight system – ~~Varying~~ **Privileges, duties and** restrictions for eligible entities – Package sales prohibited.

(1) A "Nonquota type 1" or "NQ1" retail drink license may be issued to:

- (a) A convention center or a convention hotel complex;
- (b) A horse racetrack;
- (c) An automobile racetrack;
- (d) A railroad system; or
- (e) A commercial airlines system or charter flight system.

(2) **A qualifying convention center or a convention hotel complex, horse racetrack, or an automobile racetrack holding an NQ1 retail drink license may purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The license shall permit all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses. The licensee shall purchase distilled spirits, wine, or malt beverages only from licensed wholesalers or distributors. The holder of an NQ1 retail drink license under this section shall comply with the requirements of Section 16 of this Act. An NQ1 retail drink license held under this section shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package.**

(3) **Notwithstanding any other law, a qualifying convention center or a convention hotel complex holding an NQ1 retail drink license may also hold a supplemental hotel in-room service license.**

(4) **A qualifying railroad system holding an NQ1 retail drink license may purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink or by the package, upon any train that includes a dining car and is operated by the licensee in the state. Sales shall be made only while the train is in motion. Notwithstanding any other law, a railroad system holding an NQ1 retail drink license may sell alcoholic beverages in unbroken packages smaller than two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine and may purchase alcoholic beverages from nonresidents.**

(5) **A qualifying commercial airlines system or charter flight system holding an NQ1 retail drink license may purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink, and by miniature bottle, for consumption upon regularly scheduled or charter flights of the licensee, in and out of Kentucky. The license shall authorize the licensee to store distilled spirits, wine, and malt beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.**

~~[(2) (a) The department may issue an NQ1 retail drink license to a railroad company operating a railroad system in the state upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of distilled spirits, wine, and malt beverages.~~

~~(b) Notwithstanding KRS Chapter 242, an NQ1 retail drink issued to a railroad system shall authorize the holder to sell distilled spirits, wine, and malt beverages at retail by the drink or by the package upon any train, that includes a dining car, operated by the licensee in the state. Sales shall be made only while the train is in motion. Notwithstanding any other law, holders of such licenses may retail alcoholic beverages in unbroken packages smaller than two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine and may purchase alcoholic beverages from~~

nonresidents.

~~(3) (a) The department may issue an NQ1 retail drink license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of distilled spirits, wine, or malt beverages, and the license may be renewed annually.~~

~~(b) An NQ1 retail drink license issued to a commercial airlines system or charter flight system shall authorize the holder to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, in and out of Kentucky. The license shall authorize the licensee to store distilled spirits, wine, and malt beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.~~

~~(4) An NQ1 retail drink license issued to a convention center or convention hotel complex shall authorize the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises of the convention center or hotel. The license shall permit all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses, except that a separate hotel in-room service license shall be required, where applicable. An NQ1 retail drink license issued to a convention center or convention hotel complex license shall not be transferable to other premises. This subsection shall not apply to an NQ1 retail drink license issued to or renewed for a convention center, other than those in a city of the first class or a county containing a city of the first class or a consolidated local government, if the original license was issued prior to July 15, 1998.~~

~~(5) An NQ1 retail drink license issued to an automobile racetrack shall authorize the holder to sell distilled spirits, wine, and malt beverages by the drink for consumption on the premises of an automobile racetrack. The license permits all distilled spirits, wine, and malt beverage sales on the premises without additional supplemental licenses.~~

~~(6) An NQ1 retail drink license issued to a horse racetrack shall authorize the holder to sell distilled spirits, wine, and malt beverages by the drink for consumption on the premises of a horse racetrack. The license permits all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses.]~~

Section 11. KRS 243.084 is amended to read as follows:

KRS 243.084 Nonquota type 2 or NQ2 retail drink license – Issuance to certain hotels, certain restaurants, airports, or riverboats – ***Varying Privileges, duties, and*** restrictions for eligible entities – Package sales prohibited.

(1) A "Nonquota type 2" or "NQ2" retail drink license may be issued to:

(a) A hotel that:

1. Contains at least fifty (50) sleeping units;
2. Contains dining facilities for at least ***fifty (50)***~~one hundred (100)~~ persons; and
3. Receives from its total food and beverage sales at least fifty percent (50%) of its gross receipts from the sale of food;

(b) A restaurant with a minimum seating for fifty (50) consumers at tables;

(c) An airport; or

(d) A riverboat.

(2) A qualifying hotel, restaurant~~with seating for at least one hundred (100) consumers at tables~~, airport, or riverboat holding an NQ2 retail drink license may purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, or malt beverages only from licensed wholesalers or distributors. An NQ2 retail drink license shall not authorize the licensee to sell

distilled spirits, wine, or malt beverages by the package. The holder of an NQ2 retail drink license shall comply with the requirements of KRS 243.250.

~~(3) A restaurant holding an NQ2 retail drink license which has seating for more than fifty (50) but less than one hundred (100) consumers at tables may only purchase, receive, possess, and sell wine and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase wine and malt beverages only from licensed wholesalers or distributors. An NQ2 license shall not authorize the licensee to sell wine and malt beverages by the package.~~

~~(4)~~ (a) A riverboat holding an NQ2 license may sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the premises of the riverboat. The riverboat shall have a regular place of mooring in a wet county or city of this state.

(b) A riverboat that has a regular place of mooring outside this state, may be licensed if the boat has an alternative regular place of mooring that qualifies under paragraph (a) of this subsection.

(c) An NQ2 license issued under this subsection shall not be transferable to another riverboat, vessel, or other premises.

(d) If a riverboat moors or makes landfall in a location other than its regular or alternate regular place of mooring, all distilled spirits, wine, and malt beverages shall be kept locked.

(e) A riverboat licensed under this subsection shall not take on or discharge passengers when mooring or making landfall in dry option territory.

(f) A riverboat NQ2 licensee shall comply with the license restrictions governing licensed premises in the regular place of mooring or alternative place of mooring.

(4) An NQ2 retail drink license shall not be issued to any restaurant or any dining facility in a hotel, unless the applicant can demonstrate to the director or administrator that gross receipts of the restaurant or the dining facility from the sale of food for consumption on the premises is reasonably estimated to be not less than fifty percent (50%) of the total food and alcoholic beverage receipts of the restaurant or dining facility for the license period.

Section 12. KRS 243.120 is amended to read as follows:

KRS 243 Business authorized by distiller's, rectifier's, or winery licenses—Class A and Class B distiller's licenses.

(1) A distiller's, rectifier's, or winery license shall authorize the licensee to engage in the business of distiller, rectifier, or winery at the premises specifically designated in the license, to maintain aging warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle operated by himself or herself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of the truck or vehicle holds a distributor's license.

(2) (a) Distillers that produce more than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class A.

(b) Distillers that produce fifty thousand (50,000) gallons or less of distilled spirits per calendar year at the premises shall obtain a distiller's license, Class B (craft distillery).

Section 13. KRS 243.170 is amended to read as follows:

(1) A wholesaler may sell, deliver, and transport distilled spirits and wine at wholesale, and from the licensed premises only, to:

(a) Other wholesalers;

- (b) Retailers; or
- (c) A point out of the state to persons authorized by the law of the state of their residence, and by the United States government if located in the United States, to receive the distilled spirits and wine.
- (2) A wholesaler may purchase distilled spirits and wine at wholesale from licensed distillers, rectifiers, wineries, or other wholesalers and from nonresidents authorized by the law of the states of their residence, and by the United States government if located in the United States, to make the sales. A wholesaler may not transport distilled spirits and wine from any point to his or her own licensed premises, except as provided in subsection ~~(12)~~(2) of KRS 243.200.
- (3) No wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits or wine to any person in Kentucky who is not licensed to receive, possess, distribute, or sell distilled spirits and wine, and no wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits or wine to any consumer. This section does not permit sales or deliveries of distilled spirits in Kentucky by licensed wholesalers to nonresidents who are not licensed by their own states.
- (4) A wholesaler may extend credit on distilled spirits and wine sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days. When the thirty (30) day period has passed without payment in full, no wholesaler shall sell to the licensee except for cash on delivery.

Section 14. KRS 243.200 is amended to read as follows:

~~KRS 243.200 Business authorized by~~ ***Distilled spirits and wine transporter's license – Transportation of distilled spirits and wine Privileges, duties and restrictions for eligible entities – Reports to be filed with Department of Revenue – Malt beverages transporter's license – Privileges, duties, and restrictions for eligible persons and entities.***

- (1) ***(a) A transporter's license may be issued as a primary license to a person engaged in business as a common carrier. A transporter's licensee may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.***
- (b) A transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of a common carrier. Holders of a transporter's license issued under this section may transport alcoholic beverages in Kentucky only in conformity with the provisions of their common carrier certificate issued by the Transportation Cabinet. Such licensees are specifically prohibited from transporting alcoholic beverages anywhere within the state except upon the route authorized by their respective common carrier certificates.***
- (2) ***(a) No person, firm, or corporation operating motor vehicles for hire over the highways of this state, under authority of a Certificate of Convenience and Necessity issued by the Transportation Cabinet, covering the same territory or highways designated in the certificate as irregular common carrier issued by the Interstate Commerce Commission shall be authorized or permitted to transport any alcoholic beverages in this state until the carrier has procured an appropriate transporter's license from the department, and filed with the department a statement of the proposed route of the territory over which the carrier proposes to transport alcoholic beverages.***
- (b) The statement of route shall be accompanied by an exhibit consisting of a Kentucky road map with the proposed route clearly indicated by suitable marking.***
- (c) The proposed route shall be restricted to designated federal highways except as to access side roads to distilleries and terminals. The side roads shall be the nearest and most***

traveled route from the distillery to the designated federal highway, and shall be no more than seven (7) miles from the federal highway.

(d) When the carrier has obtained a transporter's license for distilled spirits and wine from the department for transportation over designated routes, pursuant to a regular common carrier certificate, no additional license shall be required upon filing of the designated routes and exhibit required under this section.

(e) The license shall be issued to a person legally transporting alcoholic beverages to allow transportation of the beverages over numbered Kentucky state highways, or officially prescribed detours from those highways.

(3) A transporter's license may be issued to a steam, diesel, or gasoline boatline, desiring to haul alcoholic beverages in barrels or in unbroken case lots, if it maintains published river-rail rates, but licensees shall not be restricted to routes covered by such river-rail rates.

(4) A transporter's license may be issued as a primary or supplementary license to any nonresident distiller, winery, or wholesaler who is authorized by the state of his or her residence and the federal government to receive and transport distilled spirits and wine. The nonresident licensee may transport for himself or herself only, distilled spirits and wine from the licensed premises of a Kentucky manufacturer, distiller, winery, or rectifier to the transporter's licensed premises only, and beverages on which the Kentucky tax has been paid may be transported from the licensed premises of a nonresident distiller, winery, or rectifier to wholesaler licensees within the Commonwealth of Kentucky, if he or she transports the alcoholic beverages in a truck or other vehicle owned and operated by a nonresident licensee. Each truck or vehicle shall have affixed to its side a sign in uniform letters of at least three (3) inches high containing the name of the company and the state and federal permit numbers for the vehicles.

(5) An application for a transporter's license shall include a statement that the applicant, if granted a license, will allow any authorized field representative of the department to stop and examine the cargo of any truck or vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.

(6) All persons or entities holding a transporter's license shall be required to file reports with the Department of Revenue on or before the fifteenth of each month, covering the preceding month's transactions. Only one (1) report may be submitted to cover each unit shipment of alcoholic beverages transported into and from the state. Each Department of Revenue report shall show the state license number, the name and address of consignor and consignee, shipping date, delivery date, number of cases according to size contained in each shipment, and shall be signed by an official of the company handling the shipment.

(7) A transporter's license may be issued as a primary license to a person or entity wishing to transport distilled spirits and wine through this state over the public highways. A transporter's license authorizes the holder to transport distilled spirits and wine during the period of the license. The driver of a vehicle so transporting shall be in the possession of a copy of the license and bills of lading, consignment, or other evidence of ownership of the cargo which tally with the cargo. Failure of the driver to be in possession of these documents shall be prima facie evidence of illegal trafficking. The transporting of distilled spirits and wine without a transporter's license shall subject the offending party to the penalties established in KRS 243.990.

(8) A transporter's license may be issued as a primary license to a person wishing to transfer distilled spirits or wine from a licensed transporter to one (1) truck from another. The licensee may receive from and tender to transporters duly licensed under this section

those distilled spirits and wine consigned to licensees under KRS 243.020, in the Commonwealth of Kentucky.

(9) (a) A transporter's license may be issued as a primary license to a person or entity wishing to export malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of a licensed Kentucky distributor, or from another state, through Kentucky. A transporter's license may be issued to an applicant who holds a beer wholesaler or distributor's license issued by the state into which malt beverages are to be transported, or who is licensed by the state to transport those malt beverages.

(b) Applicants for the transporter's license under this subsection, and their employees, may be exempt from the residence requirements of KRS 243.100 and 244.090.

(c) A transporter's license shall authorize the holder to transport malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of the licensed Kentucky distributor, or from another state, through Kentucky, if the licensee transports the malt beverages in a truck or other vehicle carrying a transporter's license and owned and operated by its employees.

(10) A transporter's license may be issued as a primary or supplemental license to a person, except a retailer, wishing to transport malt beverages for hire. A transporter's license shall authorize the licensee to transport malt beverages for hire to or from the licensed premises of any licensee, except retailers, if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the malt beverages. A transporter licensee may transport malt beverages for hire to or from the licensed premises of any licensee under KRS 243.040 in counties containing a population of less than forty thousand (40,000) if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the malt beverages.

(11) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.

~~(12)(2)~~ Distilled spirits and wine may be transported by the holder of any license authorized to transport distilled spirits and wine to and from express or freight depots and the licensee's premises.

~~(13)(3)~~ A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.

~~(14)(4)~~ Distilled spirits and wine may be transported by any licensed retailer selling distilled spirits or wine, by the package or by the drink, from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

Section 15. KRS 243.230 is amended to read as follows:

(1) Quota retail drink licenses ~~and NQ2-retail drink licenses~~ may be issued only for premises located within cities of the first, second, or third class, or elsewhere in counties containing a city of the first, second, or third class if those counties maintain an adequate police force under KRS 70.540

and 70.150 to 70.170.

(2) ~~Notwithstanding subsection (1) of this section, an NQ2 retail drink license may be issued to a restaurant with seating for fifty (50) patrons at tables in any wet territory, but a license issued under this subsection shall only have the privileges of a license issued under KRS 243.084(3).~~

(3) ~~Notwithstanding subsection (1) of this section, quota retail drink licenses and NQ2 retail drink licenses~~ may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held under KRS 242.127 and 242.129 were in favor of the proposition voted upon if the city has an adequate police force under KRS 95.710 and 95.760 to 95.787.

REMAINING PROVISIONS RENUMBERED

Section 16. KRS 243.250 is amended to read as follows:

A quota retail drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers, and unless he or she also holds a quota retail package license, he or she shall not buy or possess distilled spirits or wine in containers smaller than two hundred (200) milliliters. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent (14%) alcohol by volume and the quota retail drink license is held by a restaurant or private club which receives a minimum of fifty percent (50%) of its food and beverage ~~receipts~~income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A quota retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package. The holder of a quota retail drink license may also hold a NQ4 retail malt beverage drink license.

Section 17. KRS 243.320 is amended to read as follows:

(1) A special nonbeverage alcohol license shall authorize the holder to purchase alcohol for nonbeverage purposes only from the holder of a distiller's license, wholesaler's license, or distributor's license and possess alcohol for use in the manufacture and sale of any of the following products, when they are unfit for beverage purposes:

- (a) Denatured alcohol produced, and sold pursuant to Acts of Congress and regulations promulgated thereunder;
- (b) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
- (c) Flavoring extracts, syrups, and food products; and
- (d) Scientific, chemical, mechanical, and industrial products.

(2) KRS Chapter 242 shall not prevent the issuance of special nonbeverage alcohol licenses to persons located in dry or moist territory nor prevent licensees from exercising the privileges granted in the license.

(3) A special nonbeverage alcohol license may also be issued to any duly authorized and bona fide hospital, museum, laboratory, charitable, educational, or similar public or private institution, to a drug store employing a licensed pharmacist, or to a licensed physician. The license shall authorize the licensee to purchase or possess alcohol and to use it only for nonbeverage purposes.

(4) The holder of a special nonbeverage alcohol license may produce, possess, and use alcohol in the manufacture of nonbeverage fuel ethanol if the holder also holds a basic permit from the applicable federal agency authorizing ethanol production.

Section 18. KRS 243.353 is amended to read as follows:

- (1) A malt beverage storage license may be issued as a supplementary license to a distributor's license, a nonquota retail malt beverage package license, or a Nonquota type 4 license, ~~or a~~ retail malt beverage drink license. A malt beverage storage license may also be issued as a primary or supplementary license in conformity with administrative regulations promulgated by the department.
- (2) The holder of a malt beverage storage license may:
 - (a) Store malt beverages at the storage licensed premises convenient to his or her regular retail malt beverage licensed premises;
 - (b) Transport the malt beverages as belonging to the holder of the license to and from the warehouse by way of the nearest route to his or her regular licensed retail malt beverage premises, if the licensee sells no malt beverages except at his or her regular malt beverage licensed premises;
 - (c) Transport and store malt beverages belonging to the distributor to, from, and at the storage licensed premises; and
 - (d) Conduct business as authorized by the department through the promulgation of administrative regulations.
- (3) The malt beverage administrator may issue a temporary storage license to a licensed distributor for storage of malt beverages if there is an emergency. The malt beverage administrator shall have sole discretion to determine the existence of any emergency.

Section 19. KRS 243.360 is amended to read as follows:

- (1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for an out-of-state malt beverage supplier's license, limited out-of-state malt beverage supplier's license, out-of-state distilled spirits and wine supplier's license, limited out-of-state distilled spirits and wine supplier's license, micro out-of-state distilled spirits and wine supplier's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a special nonbeverage alcohol license, ~~bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license, a storage warehouse license, a nonbeverage license, a vendor license,~~ a transporter's license, a special Sunday drink license, or a special temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.
- (2) The notice shall conform in all material respects to the following requirements:
 - (a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;
 - (b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and
 - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverage Control, 1003 Twilight Trail, ~~Suite A-2,~~ Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."
- (3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

Section 20. KRS 243.380 is amended to read as follows:

- (1) Applications for distilled spirit and wine licenses provided for in KRS Chapters 241 to 244 shall be made to the director of the Division of Distilled Spirits. Applications for malt beverage licenses provided for in KRS Chapters 241 to 244 shall be made to the director of the Division of Malt Beverages. Applications for distilled spirits, wine, and malt beverage licenses provided for in KRS Chapters 241 to 244 shall be made to the director of the Division of Distilled Spirits and to the director of the Division of Malt Beverages.
- (2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail all information concerning the applicant and the premises submitted for licensing as the board requires by administrative regulation. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, ~~cash,~~ a postal or express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt of the payment the board shall pay it into the State Treasury, giving the Department of Revenue copies of the pay-in vouchers and any other supporting data as the Department of Revenue requires for revenue control purposes.
- (3) A business entity that owns more than two (2) licensed premises shall initially submit common information about ownership, officers, directors, managerial employees, and shall provide current criminal background checks once for all separately licensed premises in one (1) master file. Any business qualifying under this subsection shall only be required to amend its master file information for material changes under KRS 243.390(2) or ownership transfers under KRS 243.630.

Section 21. KRS 244.125 is amended to read as follows:

- 1) Except as provided in subsection (3) of this section, no person shall be in possession of a loaded, as defined in KRS 237.060, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243.
- (2) This section shall not apply to the owner manager, or employee of licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.
- (3) This section shall not apply to a bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and which receives less than fifty percent (50%) of its annual food and beverage ~~receipts (income)~~ from the dining facilities by the sale of alcohol.
- (4) Nothing in this section shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.
- (5) Any firearm possessed in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

Section 22. KRS 244.290 is amended to read as follows:

- (1) (a) A premises that is licensed to sell distilled spirits or wine at retail shall be permitted to remain open during the hours the polls are open on any primary, or regular, local option, or special election day unless it is located where the legislative body of a city of the first, second, third, or fourth class or an urban-county government, consolidated local government, charter county government, unified local government, or the fiscal court of a county containing a city of the first, second, third, or fourth class adopts an ordinance that prohibits the sale of distilled spirits and wine or limits the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day during the hours the polls are open.
- (b) This subsection shall only apply in a wet or moist territory ~~where prohibition is no longer in~~

~~effect in whole or in part.~~

(c) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the fiscal court of a county containing a city of the first, second, third, or fourth class shall not by ordinance or any other means:

1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city of the first, second, third, or fourth class within that county; or

2. Impose an action upon a city of the first, second, third, or fourth class within that county when that city has taken no formal action pursuant to this subsection.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail by the drink or by the package shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class or an urban-county government, consolidated local government, charter county government, unified local government, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county containing a city of the first, second, or third class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) Receive less than fifty percent (50%) of their annual food and beverage ~~receipts~~~~income~~ from the dining facilities from the sale of alcohol.

(5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits director may issue a license to holders of a quota retail drink license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 243.072, may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The special Sunday retail drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 243.072; and

(b) The licensed retailers selling distilled spirits and wine by the drink have applied to the state director and meet all other legal requirements for obtaining a special Sunday retail drink license.

(7) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban-county government, consolidated local government, charter county

government, or unified local government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government, consolidated local government, charter county government, or unified local government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government, consolidated local government, charter county government, or unified local government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

Section 23. KRS 244.295 is amended to read as follows:

(1) In any county containing an urban-county government, a premises that has been granted a license for the sale of distilled spirits or wine at retail shall not be permitted to remain open for any purpose between midnight and 6 a.m., or at any time during the twenty-four (24) hours of a Sunday, unless the licensee provides a separate department within his or her licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his or her business as a licensee, and the department is kept locked during the time mentioned above. The licensee shall be deemed to have complied with this section; except that the legislative body of an urban-county government in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries. Provided, however, distilled spirits or wine may not be sold in any portion of a county containing an urban-county government during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsections (2) and (3) of this section; and provided, also, that all stocks of distilled spirits and wine shall be kept locked during the hours in which the licensee is prohibited from selling distilled spirits and wine.

(2) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the urban-county government may by resolution or ordinance submit to the electorate a proposal to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour specified in the proposal by hotels, motels, convention centers, convention hotel complexes, restaurants, racetracks, and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive less than fifty percent (50%) of their annual food and beverage ~~receipts~~~~income~~ from dining facilities by the sale of alcohol. The proposal to be submitted to the electorate shall be framed so that any voter who wishes to vote in favor of the limited Sunday sales of distilled spirits and wine by the drink may signify his or her approval by voting "yes" and any voter who wishes to vote against the limited Sunday sales of distilled spirits and wine by the drink may do so by voting "no." The election shall be held on a date stipulated by the legislative body, and the cost of the election shall be borne by the urban-county government. The proposal shall be published pursuant to KRS Chapter 424 and shall also be advertised by written or printed handbills posted at not less than five (5) conspicuous places in each precinct of the county for two (2) weeks before the election. The general election laws, including penalties for violations, shall apply to the election, except where

those laws are inconsistent with the provisions of this section. The proposal submitted to the electorate shall be effective immediately if a majority of those voting on the proposal vote "yes."

(4) In any county containing an urban-county government in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (3) of this section, licensed retailers selling distilled spirits and wine by the drink may apply to the director of the Division of Distilled Spirits for a special Sunday retail drink license. Upon receipt of an application and payment of the prescribed fee, the director shall issue a license.

(5) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban-county government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

Section 24. KRS 244.480 is amended to read as follows:

(1) Except as provided in subsection (4) of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.

(2) Except as provided in subsection (4) of this section, no retailer shall sell, give away, or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday.

(3) (a) A retailer may sell malt beverages during the hours the polls are open on a primary, or regular, local option, or special election day unless the retailer is located where the legislative body of an urban-county government, consolidated local government, charter county government, unified local government, or a city of the first, second, third, or fourth class, or the fiscal court of a county containing an urban-county government or a city of the first, second, third, or fourth class, in which traffic in malt beverages is permitted by KRS Chapter 242 has adopted an ordinance that prohibits the sale of alcoholic beverages or limits the hours and times in which alcoholic beverages may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day.

(b) This subsection shall only apply in a wet or moist territory ~~where prohibition is no longer in effect in whole or in part~~.

(c) Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the fiscal court of a county containing a city of the first, second, third, or fourth class shall not by ordinance or any other means:

1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city of the first, second, third, or fourth class within that county; or

2. Impose an action upon a city of the first, second, third, or fourth class within that county when that city has taken no formal action pursuant to this subsection.

(4) The legislative body of an urban-county government, consolidated local government, charter county government, unified local government, or a city of the first, second, third, or fourth class or of a county containing an urban-county government, consolidated local government, charter county government, unified local government, or a city of the first, second, third, or fourth class in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power to establish the times in which malt beverages may be sold within its jurisdictional boundaries, including Sunday and any primary, or regular, local option, or special election day sales if the hours so fixed shall not prohibit the sale, gift, or delivery of any malt beverages between 6 a.m. and midnight during any day, except Sunday.

Section 25. KRS 244.585 is amended to read as follows:

(1) It shall be unlawful for any distributor to sell any brand of malt beverage in the Commonwealth of Kentucky, except in the territory described in a written agreement between the supplier or brewer and distributor, authorizing sale by the distributor of that brand within a designated area, and within that designated area the distributor shall not refuse to sell or offer reasonable service to licensed retailers during the normal business hours of the distributor. Where a supplier or brewer sells several brands, the agreement need not apply to all brands sold by the supplier or brewer and may apply to only one (1) brand. No supplier or brewer shall provide by the written agreement for the distribution of a brand of malt beverages to more than one (1) distributor for all or any part of the designated territory. Upon request, all territorial agreements shall be filed with the department.

(2) Each distributor shall comply with such quality control standards as are specified in writing from time to time by the owner of the trademark of the brand of malt beverage, provided those controls are:

- (a) Normal industry practice;
- (b) Reasonably related to the maintenance of quality control;
- (c) Consistent with the provisions of this chapter and all regulations promulgated pursuant thereto; and
- (d) The distributor has received written notice of them from such owner.

(3) A distributor may sell to only those licensed retailers, religious, charitable or fraternal organizations located within his designated geographical territory as provided in this section and to his employees and to other distributors of the same brand. No brand of malt beverage may be sold in the Commonwealth of Kentucky without prior written approval of the brewer and supplier filed with the department.

(4) A territorial designation in any agreement between a distributor and brewer or supplier pursuant to this section shall be modified only in accordance with all the rights and duties of the distributor and brewer or supplier contained in any written agreement between them or by such other action of the brewer, supplier or distributor that is consistent with the terms of their agreement, and such modification shall be filed pursuant to the provisions of this section. The board shall require each party to verify that the level of service within the designated territory will not be adversely affected by such modification. When a distributor is prevented from selling or servicing retailers within his territory due to natural disasters, labor disputes or other such causes beyond his control, the distributor may allow another distributor of the same brand of malt beverages to sell and service that brand within his territory upon approval of the brewer or supplier.

(5) No provisions of any agreement shall expressly or impliedly establish or maintain the resale price of any brand of malt beverage by the distributor.

Section 26. The following KRS sections are repealed:

243.083 Restrictions on issuance of NQ2 retail drink licenses to certain restaurants or hotel dining facilities.

243.205 Business authorized by transporter's license -- Transportation of distilled spirits, wine, and malt beverages -- Entities eligible for license -- Reports to Department of Revenue -- Restrictions upon routes traveled -- Examination of cargo -- Illegal trafficking -- Exemption from KRS 243.100 and 244.090.

SENATE BILL 98 ADULT ABUSE, NEGLECT AND EXPLOITATION

SECTION 1. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

KRS 209.032 Query as to whether prospective or current employee has validated substantiated finding of adult abuse, neglect or exploitation – Administrative regulations – central registry of substantiated findings made on or after July 15, 2014

(1) As used in this section:

(a) "Employee" means a person who:

- 1. Is hired directly or through a contract by a vulnerable adult services provider who has duties that involve or may involve one-on-one contact with a patient, resident, or client; or**
- 2. Is a volunteer who has duties that are equivalent to the duties of an employee providing direct services and the duties involve, or may involve, one-on-one contact with a patient, resident, or client;**

(b) "Validated substantiated finding of adult abuse, neglect, or exploitation" means that the cabinet has:

- 1. Entered a final order concluding by a preponderance of the evidence that an individual has committed adult abuse, neglect, or exploitation against a different adult for whom the individual was providing care or services as an employee or otherwise with the expectation of compensation;**
- 2. The individual has been afforded an opportunity for an administrative hearing and an appeal to the Circuit Court of the county where the abuse, neglect, or exploitation is alleged to have occurred or, if the individual consents, to the Franklin Circuit Court under procedures compliant with KRS Chapter 13B; and**
- 3. That any appeal, including the time allowed for filing an appeal, has concluded or expired; and**

(c) "Vulnerable adult service provider" means:

- 1. Adult day health care program centers as defined in KRS 216B.0441;**
- 2. Adult day training facilities;**
- 3. Assisted-living communities as defined in KRS 194A.700;**
- 4. Boarding homes as defined in KRS 216B.300;**
- 5. Group homes for individuals with an intellectual disability and developmentally disabled (ID/DD);**
- 6. Home health agencies as defined in KRS 216.935;**
- 7. Hospice programs or residential hospice facilities licensed under KRS Chapter 216B;**
- 8. Long-term-care hospitals as defined in 42 U.S.C. sec. 1395ww(d)(1)(B)(iv);**
- 9. Long-term-care facilities as defined in KRS 216.510;**
- 10. Personal services agencies as defined in KRS 216.710;**
- 11. Providers of home and community-based services authorized under KRS Chapter 205, including home and community based waiver services and supports for community living services; and**
- 12. State-owned and operated psychiatric hospitals.**

(2) A vulnerable adult services provider shall query the cabinet as to whether a validated substantiated finding of adult abuse, neglect, or exploitation has been entered against an individual who is a bona fide prospective employee of the provider. The provider may periodically submit similar queries as to its current employees and volunteers. The cabinet shall reply to either type of query only that it has or has not entered such a finding against

the named individual.

(3) An individual may query the cabinet as to whether the cabinet's records indicate that a validated substantiated finding of adult abuse, neglect, or exploitation has been entered against him or her. The cabinet shall reply only that it has or has not entered such a finding against the named individual, although this limitation shall not be construed to prevent the individual from obtaining cabinet records under other law, including the Kentucky Open Records Act. An individual making a query under this subsection may direct that the results of the query be provided to an alternative recipient seeking to utilize the care or services of the querying individual.

(4) Every cabinet investigation of adult abuse, neglect, or exploitation committed by an employee or a person otherwise acting with the expectation of compensation shall be conducted in a manner affording the individual being investigated the level of due process required to qualify any substantiated finding as a validated substantiated finding of adult abuse, neglect, or exploitation.

(5) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:

(a) An error resolution process allowing an individual whose name is erroneously reported to have been the subject of a validated substantiated finding of adult abuse, neglect, or exploitation to request the correction of the cabinet's records; and

(b) A designation of the process by which queries may be submitted in accordance with this section, which shall require that the queries be made using a secure methodology and only by providers and persons authorized to submit a query under this section.

(6) If the cabinet does not respond to a query under subsection (2) of this section within twenty-four (24) hours and a vulnerable adult services provider hires or utilizes an employee provisionally, the provider shall not be subject to liability solely on the basis of hiring or utilizing the employee before having received the cabinet's response.

(7) This section shall only apply to instances of abuse, neglect, or exploitation substantiated on or after the effective date of this Act, which shall be compiled into a central registry for the purpose of queries submitted under this section.

EMERGENCY

SENATE BILL 109 SALE OF TOBACCO PRODUCTS TO MINORS

Section 1. KRS 438.305 is amended to read as follows:

As used in KRS 438.305 to 438.340, unless the context requires otherwise:

(1) (a) "Alternative nicotine product" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

(b) "Alternative nicotine product" does not include any tobacco product, vapor product, or any other product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act;

(2) "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

~~(3)(2)~~ "Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

~~(4)(3)~~ "Proof of age" means a driver's license or other documentary or written evidence that the individual is eighteen (18) years of age or older;

~~(5)(4)~~ "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

~~(6)(5)~~ "Sample" means a tobacco product, *alternative nicotine product, or vapor product* distributed to members of the general public at no cost;

~~(7)(6)~~ "Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

(8) (a) "Tobacco product" means any cigarette, cigar, snuff, smokeless tobacco product, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in a person's mouth.

(b) "Tobacco product" does not include any alternative nicotine product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(9) (a) "Vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product or device.

(b) "Vapor product" does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

Section 2. KRS 438.310 is amended to read as follows:

KRS 438.310 Sale of tobacco products, *alternative nicotine products, or vapor products* to persons under age 18 prohibited – Penalty.

(1) No person shall sell or cause to be sold any tobacco product, *alternative nicotine product, or vapor product* at retail to any person under the age of eighteen (18), or solicit any person under the age of eighteen (18) to purchase any tobacco product, *alternative nicotine product, or vapor product* at retail.

(2) Any person who sells tobacco products, *alternative nicotine products, or vapor products* at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products, *alternative nicotine products, or vapor products* to persons under age eighteen (18).

(3) Any person selling tobacco products, *alternative nicotine products, or vapor products* shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of eighteen (18).

(4) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for a first violation and a

fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for any subsequent violation. The fine shall be administered by the Department of Alcoholic Beverage Control using a civil enforcement procedure.

Section 3. KRS 438.311 is amended to read as follows:

KRS 438.311 Unlawful acts by minors relating to purchase or receive of tobacco ***products, alternative nicotine products, or vapor products*** – Penalty – issuance of uniform citation.

(1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, ***alternative nicotine product, or vapor product***, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product, ***alternative nicotine product, or vapor product***. It shall not be unlawful for such a person to accept receipt of a tobacco product, ***alternative nicotine product, or vapor product*** from a family member, except if the child has been committed to the custody of the state under KRS Chapters 600 to 645, or from an employer when required in the performance of the person's duties.

(2) Violation of this section shall be punishable by a fine of fifty dollars (\$50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars (\$200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.

(3) This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

Section 4. KRS 438.313 is amended to read as follows:

KRS 438.313 Distribution of tobacco products, ***alternative nicotine products, or vapor products*** to persons under age 18 prohibited – Penalty – Issuance of uniform citation.

(1) No wholesaler, retailer, or manufacturer of cigarettes, ~~or~~ tobacco products, ***alternative nicotine products, or vapor products*** may distribute cigarettes, ~~or~~ tobacco products, ***alternative nicotine products, or vapor products***, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes, ~~or~~ tobacco products, ***alternative nicotine products, or vapor products***, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) for each offense. The fine shall be administered by the Department of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child

into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 5. KRS 438.315 is amended to read as follows:

KRS 438.315 Sales *of tobacco products, alternative nicotine products, or vapor products* to or purchases by persons under age 18 from vending machine prohibited – Location of vending machine – Penalty – Issuance of uniform citation.

(1) The sale of tobacco products, *alternative nicotine products, or vapor products* dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products, *alternative nicotine products, or vapor products* dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, ~~beginning one (1) year after July 15, 1994,~~ any vending machine from which tobacco products, *alternative nicotine products, or vapor products* are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. The fine shall be administered by the Department of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

(5) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 6. KRS 438.325 is amended to read as follows:

(1) Each owner of a retail establishment selling or distributing tobacco products, *alternative nicotine products, or vapor products* shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products, *alternative nicotine products, or vapor products* to any person under the age of eighteen (18) years and the purchase of tobacco products, *alternative nicotine products, or vapor products* by any person under the age of eighteen (18) years ~~is~~ prohibited.

(2) Each owner of a retail establishment selling or distributing tobacco products, *alternative nicotine products, or vapor products* shall notify each individual employed in the retail establishment as a retail sales clerk that proof of age is required from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on *the effective date of this Act* ~~July 15, 1994~~, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or

distribute tobacco products, **alternative nicotine products, or vapor products** to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products, **alternative nicotine products, or vapor products**."

(4) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (3) of this section in a place and in a manner so as to be easily accessible to any employee of the Department of Alcoholic Beverage Control or the Department of Agriculture conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products, **alternative nicotine products, or vapor products** to persons under the age of eighteen (18) as provided in KRS 438.305 to 438.340.

(5) Any owner of the retail establishment violating subsections (1) to (4) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. The fine shall be administered by the Department of Alcoholic Beverage Control in a civil enforcement procedure.

Section 7. KRS 438.330 is amended to read as follows:

KRS 438.330 Random inspections of retail establishment selling or distributing tobacco products, **alternative nicotine products, or vapor products** – Preparation of federally required annual report.

(1) The Department of Alcoholic Beverage Control and the Department of Agriculture shall carry out annually-conducted random, unannounced inspections of retail establishments where tobacco products, **alternative nicotine products, or vapor products** are sold or distributed for the purpose of enforcing the provisions of KRS 438.305 to 438.340. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The Department of Alcoholic Beverage Control and the Department of Agriculture shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products, **alternative nicotine products, or vapor products**. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of KRS 438.305 to 438.340 only if the testing is conducted under the direct supervision of the Department of Alcoholic Beverage Control, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The Department of Alcoholic Beverage Control shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

(2) The Department of Alcoholic Beverage Control shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

Section 2. KRS 438.335 is amended to read as follows:

The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340 as they relate to educating the public and sellers of tobacco products, **alternative nicotine products, or vapor products** about provisions and penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent (\$0.03) per pack revenue collected by the Department of Revenue from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of these education efforts.

Section 9. KRS 438.350 is amended to read as follows:

KRS 438.350 Prohibition against possession or use of tobacco products, *alternative nicotine products, or vapor products* by minors – Exceptions.

(1) No person under the age of eighteen (18) shall possess or use tobacco products, *alternative nicotine products, or vapor products*.

(2) Any tobacco product, *alternative nicotine product, or vapor product* found in the possession of a person under the age of eighteen (18) and in plain view of the law enforcement officer shall be confiscated by the law enforcement officer making the charge.

(3) This section shall not apply to persons exempted as provided by KRS 438.311 and 438.330.

(4) The terms "*alternative nicotine product*," "*tobacco product*," and "*vapor product*," shall have the same meaning as in Section 1 of this Act.

Section 3. Whereas it is incumbent upon the Commonwealth of Kentucky to protect the health, safety, and welfare of the young people living within its borders, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

EMERGENCY

SENATE BILL 124 MARIJUANA OIL

Section 1. KRS 218A.010 is amended to read as follows:

* * * * *

(21) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:

(a) Industrial hemp as defined in KRS 260.850;

(b) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or

(c) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;

REMAINING DEFINITIONS RENUMBERED

* * * * *

Section 3. Whereas the substance identified by this bill is of vital importance to some of Kentucky's most vulnerable citizens, for whom time is of the essence, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SENATE BILL 138 ISSUANCE OF LEGAL PROCESS

Section 14. KRS 454.210 is amended to read as follows:

KRS 454.210 Personal jurisdiction of courts over nonresident – Process, how served – ***Fee – Venue.***

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or goods in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;
5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;
6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;
7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting;
8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:
 - a. The father or mother or both are domiciled in this state;
 - b. There is a repeated pattern of intercourse between the father and mother in this state; or
 - c. Said intercourse is a tort or a crime in this state; or
9. Making a telephone solicitation, as defined in KRS 367.46951, into the Commonwealth.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of such person;

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons *either* by:

1. Sending by certified mail two (2) true copies to the Secretary of State and shall also mail with the summons two (2) attested copies of plaintiff's complaint; *or*

2. Transmitting an electronically attested copy of the complaint and summons to the Secretary of State via the Kentucky Court of Justice electronic filing system.

(c) The Secretary of State shall, within seven (7) days of receipt thereof in his office, mail a copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the Secretary of State. The clerk shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure; and

(d)(e) The clerk mailing the summons to the Secretary of State shall mail to him, at the same time, a fee of ten dollars (\$10), which shall be taxed as costs in the action. **The fee for a summons transmitted electronically pursuant to this subsection (3) of this section shall be transmitted to the Secretary of State on a periodic basis.**

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

SENATE BILL 143 BIOPTIC DRIVERS

Section 1. KRS 186.578 is amended to read as follows:

(1) Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:

(a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;

(b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;

(c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and

(d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.

(2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.

(3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.

(4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the Department of Kentucky State Police. The operator's license examination shall include testing of the applicant's driving skills over a

route specifically designed to test the applicant's competency using a bioptic telescopic device.

(5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.

(6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director ***or bioptic driving instructor*** recommending that the applicant or restricted out-of-state driver be allowed to retake the examination.

(7) The Office for the Blind shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

Section 2. KRS 186.579 is amended to read as follows:

KRS 186.579 Restricted operator's license requiring daytime driving, use of bioptic telescopic device and vehicle with left and right outside mirrors – Removal of restrictions – Renewal.

(1) The circuit clerk shall issue, to an applicant who successfully passes the operator's license examination outlined in KRS 186.578(4), an operator's license with the following restrictions:

(a) Required use of a bioptic telescopic device; ~~and~~

(b) Restricted to daytime driving ***upon the recommendation of a vision specialist; and***

(c) Restricted to vehicles with left and right outside mirrors.

(2) A restriction to daytime driving in accordance with subsection (1) of this section shall be removed if the licensed driver:

(a) ***Obtains a recommendation from a vision specialist*** ~~Drives for thirty-six (36) months without any at-fault accidents and without any license suspensions;~~

(b) Successfully completes additional evaluation and training specifically designed for night driving from a certified driver training program; and

(c) Passes a comprehensive night driving examination.

(3) An operator's license issued under KRS 186.578 and 186.579 shall be effective for one (1) year and shall expire on the last day of the birth month of the license holder. The license holder shall undergo a comprehensive visual examination by a vision specialist before a license can be renewed. If the vision specialist certifies that the conditions causing the visual impairment are stable, then the circuit clerk shall issue a renewal license. If the conditions causing the visual impairment are unstable or deteriorating, the license holder may be required to undergo additional testing as required by the department before a renewal license may be issued.

SENATE BILL 158 CAMPUS SAFETY

Section 1. KRS 164.9489 is amended to read as follows:

KRS 164.948 to 164.9489 and KRS 164.993 may be cited as the Michael Minger ***Life Safety*** Act.

SENATE BILL 184 HUMAN TRAFFICKING.

SECTION 1. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

KRS 529.160 Expungement of records relating to violation of chapter when person charged or convicted was a victim of human trafficking at time of offense – Motion – Finding – Presumption.

(1) When a person is charged or convicted under this chapter, or with an offense which is not a violent crime as defined in KRS 17.165, and the person's participation in the offense is determined to be the direct result of being a victim of human trafficking, the person may make a motion in the court in which the charges were filed to expunge all records of the offense.

(2) The motion shall be filed no sooner than sixty (60) days following the date the final judgment was entered by the court in which the charges were filed.

(3) (a) A motion filed under this section, any hearing conducted on the motion, and any relief granted, are governed by KRS 431.076, 431.078, and 431.079 unless otherwise provided in this section.

(b) For the purposes of expungement under KRS 431.076, a finding by the court that the person's participation in the offense was a direct result of being a victim of human trafficking shall deem the charges as dismissed with prejudice.

(c) No official determination or documentation is required to find that the person's participation in the offense was a direct result of being a victim of human trafficking, but documentation from a federal, state, local, or tribal governmental agency indicating that the defendant was a victim at the time of the offense shall create a presumption that the defendant's participation in the offense was a direct result of being a victim.

KRS 529.170 Being victim of human trafficking is affirmative defense to violation of chapter.

SECTION 25. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

A person charged under this chapter, or charged with an offense which is not a violent crime as defined in KRS 17.165, may assert being a victim of human trafficking as an affirmative defense to the charge.

SENATE BILL 192 SPECIAL LAW ENFORCEMENT OFFICERS

Section 1. KRS 16.220 is amended to read as follows:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Department of Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. Any provision of KRS Chapter 45 or 45A relating to disposition of property to the contrary notwithstanding, the Department of Kentucky State Police shall:

(a) Conduct any auction specified by this section;

(b) Retain for departmental use twenty percent (20%) of the gross proceeds from any auction

specified by this section; and

(c) Transfer remaining proceeds of the sale to the account of the Kentucky Office of Homeland Security for use as provided in subsection (4) of this section.

(2) Prior to the sale of any firearm, the Department of Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(3) The Department of Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The department shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

(4) The proceeds of firearms sales shall be utilized by the Kentucky Office of Homeland Security to provide grants to city, county, charter county, unified local government, urban-county government, and consolidated local government police departments; university safety and security departments organized pursuant to KRS 164.950; **school districts that employ special law enforcement officers as defined in KRS 61.900;** and sheriff's departments for the purchase of:

(a) Body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments;

(b) Firearms or ammunition; and

(c) Electronic control devices, electronic control weapons, or electro-muscular disruption technology.

In awarding grants under this section, the Kentucky Office of Homeland Security shall give first priority to providing and replacing body armor and second priority to providing firearms and ammunition, with residual funds available for the purchase of electronic control devices, electronic control weapons, or electro-muscular disruption technology. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

(5) The Department of Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of Justice, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

SENATE BILL 200 JUVENILES

* * * * *

Section 12. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Each local school shall annually provide to the Department of Education, through the Kentucky Department of Education's student information system, an assessment of school incidents relating to disruptive behaviors resulting in a complaint, including whether:

- (1) The incident involved a public offense or noncriminal misconduct;**
- (2) The incident was reported to law enforcement or the court-designated worker and the charge or type of noncriminal misconduct that was the basis of the referral or report; and**
- (3) The report was initiated by a school resource officer.**

* * * * *

Section 6. KRS 158.441 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.~~;~~⁺
- (2) "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district; **and**
- (3) "School security officer" means a person employed by a local board of education who has been appointed a special law enforcement officer pursuant to KRS 61.902 and who has specialized training to work with youth at a school site.**

* * * * *

Section 7. KRS 610.030 is amended to read as follows:

Except as otherwise provided in KRS Chapters 600 to 645:

- (1) If any person files a complaint alleging that a child, except a child alleged to be neglected, abused, dependent or mentally ill who is subject to the jurisdiction of the court, may be within the purview of KRS Chapters 600 to 645, ~~a preliminary intake inquiry shall be conducted by~~ the court-designated worker **shall make a preliminary determination as to whether the complaint is complete. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request additional information in order to complete the complaint. The complainant shall promptly furnish the additional information requested;**
- (2) (a) Upon receipt of a complaint which appears to be complete and which alleges that a child has committed a public offense, the court-designated worker shall refer the**

complaint to the county attorney for review pursuant to Section 45 of this Act.

(b) If after review the county attorney elects to proceed, the court-designated worker shall conduct a preliminary intake inquiry to recommend whether the interests of the child or the public require that further action be taken or whether, in the interest of justice, the complaint can be resolved informally without the filing of a petition;

(3) Upon receipt of a complaint that appears to be complete and that alleges that the child has committed a status offense, the court-designated worker shall conduct a preliminary intake inquiry to determine whether the interests of the child or the public require that further action be taken;

(4) Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian, or other person exercising custodial control or supervision of the child in writing:

(a) Of their opportunity to be present at the preliminary intake inquiry;

(b) That they may have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;

(c) 1. That all information supplied by the child to a court-designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child.

2. Information may be shared between treatment providers, the court-designated worker, and the family accountability, intervention, and response team to enable the court-designated worker to facilitate services and facilitate compliance with the diversion agreement; and

(d) That the child has the right to deny the allegation and demand a formal court hearing;

(5) The preliminary intake inquiry shall include the administration of an evidence-based screening tool and, if appropriate and available, a validated risk and needs assessment, in order to identify whether the child and his or her family are in need of services and the level of intervention needed;

(6) Upon the completion of the preliminary intake inquiry, the court-designated worker may:

(a) If the complaint alleges a status offense, determine that no further action be taken subject to review by the family accountability, intervention, and response team;

(b) If the complaint alleges a public offense, refer the complaint to the county attorney;

(c) Refer a public offense complaint for informal adjustment; or

(d) Based upon the results of the preliminary intake inquiry, other information obtained, and a determination that the interests of the child and the public would be better served, and with the written approval of the county attorney for a public offense complaint, if necessary, conduct a formal conference and enter into a diversion agreement;

(7) Upon receiving written approval of the county attorney, if necessary, to divert a public offense complaint, and prior to conducting a formal conference, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense:

(a) Of the recommendation and the reasons therefor and that the complainant, victim, or law enforcement agency may submit within ten (10) days from receipt of such notice a complaint to the county attorney for special review; or

(b) In the case of a misdemeanor diverted pursuant to subsection (4) of Section 45 of this Act, of the fact that the child was statutorily entitled to divert the case;

(8) A formal conference shall include the child and his or her parent, guardian, or other

person exercising custodial control or supervision. The formal conference shall be used to:

(a) Present information obtained at the preliminary intake inquiry; and
(b) Develop a diversion agreement that shall require that the child regularly attend school, shall not exceed six (6) months in duration, and may include:

1. Referral of the child, and family if appropriate, to a public or private entity or person for the provision of identified services to address the complaint or assessed needs;

2. Referral of the child, and family if appropriate, to a community service program within the limitations provided under subsection (2) of Section 48 of this Act;

3. Restitution, limited to the actual pecuniary loss suffered by the victim, if the child has the means or ability to make restitution;

4. Notification that the court-designated worker may apply graduated sanctions for failure to comply with the diversion agreement;

5. Any other program or effort which reasonably benefits the community and the child; and

6. A plan for monitoring the child's progress and completion of the agreement;

(9) (a) If a child successfully completes a diversion agreement, the underlying complaint shall be dismissed and further action related to that complaint shall be prohibited.

(b) If a child fails to appear for a preliminary intake inquiry, declines to enter into a diversion agreement, or fails to complete a diversion agreement, then:

1. For a public offense complaint, the matter shall be referred to the county attorney for formal court action and, if a petition is filed, the child may request that the court dismiss the complaint based upon his or her substantial compliance with the terms of diversion; and

2. For a status offense complaint, the court-designated worker shall refer the matter to the family accountability, intervention, and response team for review and further action~~to determine the validity of the complaint, and, if valid, whether the interests of the child or the public require that further action be taken;~~

~~(2) The court-designated worker after conducting the preliminary intake inquiry shall:~~

~~(a) With notice to the complainant:~~

~~1. Determine that no further action be taken and dispose of the complaint;~~

~~2. Refer to an appropriate individual or social service agency for proper action;~~

~~3. Enter into diversionary agreement;~~

~~4. Refer to court for informal adjustment; or~~

~~5. Refer to court for formal hearing;~~

~~(10)(3) If a [the court-designated worker determines that the] complaint is [should be] referred to the court [for either informal adjustment or for formal hearing under subsection (2)(a)4. or 5. of this section], the complaint and findings of the court-designated worker's preliminary intake inquiry shall be submitted to the court for the court to determine whether process should issue; and~~

~~(11)(4) At any stage in the proceedings described in this section, the court or the county attorney may review any decision of the court-designated worker. The court upon its own motion or upon written request of the county attorney may refer any complaint for a formal hearing.~~

Section 8. KRS 610.100 is amended to read as follows:

(1) Unless there is a suitable prior disposition investigation report or unless waived by the child who is represented by counsel, before making disposition of the case of a child brought before the court under the provisions of KRS Chapters 630 or 635, whether by complaint pursuant to KRS 610.020, or by reason of having been taken into custody pursuant to KRS 610.190, the judge shall cause an investigation to be made concerning the nature of the specific act complained of and any

surrounding circumstances which suggest the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation, and everything that may pertain to his or her life, and character. The investigation shall also include an inquiry into the home conditions, life, and character of the person having custody of the child. The investigation shall also include an assessment of the parent or guardian's ability to pay all or part of the cost of the child's care and treatment should the child be ordered into a treatment program or placed on supervised probation. The result of the investigation, including the result of the validated risk and needs assessment, shall be reported in writing to the court and to counsel for the parties three (3) days prior to the child's dispositional hearing and shall become a part of the record of the proceedings. The child may waive the three (3) day requirement. Objections by counsel at the dispositional hearing to portions of the dispositional report shall be noted in the record.

(2) The investigation shall be conducted by a suitable public or private agency. The cabinet and the Department of Juvenile Justice may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county government may enter into a contract on behalf of his or her county with the Department of Juvenile Justice or the cabinet for the furnishings of such services.

~~{(3) Upon the court's motion or the motion of any party, an informal adjustment may be made at any time during the proceedings and with the victim and with those persons specified in KRS 610.070 having prior notification of the motion.}~~

Section 9. KRS 610.110 is amended to read as follows:

(1) The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child under the provisions of KRS Chapter 630 or 635.

(2) At the disposition, all information helpful in making a proper disposition, including oral and written reports and the results of a validated risk and needs assessment, shall be received by the court in compliance with subsection (1) of this section and relied upon to the extent of their probative value, provided that the parties or their counsel shall be afforded an opportunity to examine and controvert the reports.

(3) The court shall, and the Department of Juvenile Justice may upon request, notify the law enforcement agency of the child's city, county, or urban-county of residence as appropriate and the law enforcement agencies where any offense was committed of the disposition of each case and of each child committed by the court who is placed in a residential treatment facility by the Department of Juvenile Justice or the cabinet.

(4) If any court commits a child to the Department of Juvenile Justice or the cabinet, a child-caring facility, or child-placing agency, the court shall cause to be transmitted to the Department of Juvenile Justice or the cabinet, facility, or agency, as appropriate, a certified copy of the commitment order, together with a summary of the court's information concerning the child. A certified copy of the court order shall be proof of the authority of the Department of Juvenile Justice or the cabinet, facility, or agency to hold the child. Such certified order shall be sufficient authority for any law enforcement officer to take into custody any person named therein and deliver him or her to such a place as shall be directed by the Department of Juvenile Justice or the cabinet, facility, or agency given custody of him or her in the order.

(5) In placing a child on probation in a home or boarding home, or in committing a child to a child-caring facility or child-placing agency, the court shall as far as practicable select a home, facility, or agency operated or governed by persons of a similar religious faith as the parents of the child.

(6) Upon motion of the child and agreement of the Department of Juvenile Justice or the cabinet, as appropriate, the court may authorize an extension of commitment up to age twenty-one (21) for

the purpose of permitting the Department of Juvenile Justice or the cabinet, as appropriate, to assist the child in establishing independent living arrangements if a return to the child's home is not in his or her best interest.

Section 10. KRS 610.120 is amended to read as follows:

(1) Except as otherwise provided by KRS Chapters 605 and 635, an order of commitment or an order of ~~protective~~ supervision or probation made by the court in the case of a child may be ~~continued or~~ terminated at any time prior to expiration on the court's own initiative or on motion by:

- (a) A child who is affected by an order of juvenile session of District Court;
- (b) The family, custodian, guardian, or legal representative of such a child;
- (c) The Department of Juvenile Justice or the cabinet;
- (d) The county attorney of the county in which the committing court presides; or
- (e) Any other person having an interest in the welfare of the child.

(2) Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not responded to or benefited from treatment or the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires termination of the order. Upon review of the child's case, the Department of Juvenile Justice, the cabinet, any agency, facility, or individual responsible for the supervision, care, or treatment of the child shall divulge and communicate such information regarding the child as the court may require.

(3) Except as otherwise provided by KRS Chapter 640 relating to youthful offenders, and KRS 610.110, 620.140, 635.060, 635.090, ~~for 635.515,~~ or 645.140, relating to extending commitment beyond the age of eighteen (18), an order of commitment, temporary custody, or an order of ~~protective~~ supervision or probation made by the court in the case of a child shall be terminated when the child attains the age of eighteen (18) unless otherwise provided in law. At least fourteen (14) days prior to the termination of an order of commitment ~~committed child's eighteenth birthday~~, the Department of Juvenile Justice or the cabinet shall prepare a summary of the information concerning the child and submit it with written notification to the committing court that a child's commitment is due to expire.

Section 11. KRS 610.190 is amended to read as follows:

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest until the court has made the decision to try the child in Circuit or District Court as an adult. The law relating to bail shall not be applicable to children detained in accordance with this chapter unless the child is subject to being tried in Circuit or District Court as an adult.

(2) **A peace officer may take a child into protective custody if the officer suspects the child to be a runaway. A child taken into protective custody under this subsection shall not be considered to have been arrested and may be held at the locations specified in subsection (1) of Section 42 of this Act, after which the officer shall proceed with an initial investigation as provided for in Section 41 of this Act.**

(3) When a child is taken into custody by a person other than a peace officer, such person shall as soon as possible place the child in the custody of a peace officer.

Section 12. KRS 610.200 is amended to read as follows:

(1) When a peace officer has taken or received a child into custody on a charge of committing an offense, the officer shall immediately inform the child of his constitutional rights and afford him the protections required thereunder, notify the parent, or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate, and if the parent is not available, then a relative, guardian, or person exercising custodial control or supervision of the child, that the child has been taken into custody, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for taking the child into custody.

(2) *(a) When a peace officer has taken or received a child into protective custody on suspicion of being a runaway, the officer shall immediately notify:*

1. The child's parent, guardian, or person exercising custodial control or supervision of the child, if determined;

2. The cabinet or Department of Juvenile Justice, if appropriate; and

3. The court-designated worker.

(b) If the parent, guardian, or other person exercising custodial control or supervision is identified and notified, the peace officer may retain custody of the child for a reasonable period to allow the person notified the opportunity to arrive at the officer's location and collect the child.

(c) If the parent, guardian, or other person exercising custodial control or supervision cannot be identified or located, the peace officer may retain custody of the child for a period of time not to exceed two (2) hours to continue his or her investigation.

(d) If, at the conclusion of the peace officer's investigation, the parent, guardian, or person exercising custodial control or supervision of the child is identified and notified, the peace officer shall return the child to the custody of that person and shall file a status offense case with the court-designated worker.

(e) If, at the conclusion of the peace officer's investigation, the parent, guardian, or person exercising custodial control or supervision of the child cannot be identified or located, or that person refuses to collect the child, the peace officer shall file a complaint pursuant to Section 34 of this Act.

(3) Unless the child is subject to trial as an adult or unless the nature of the offense or other circumstances are such as to indicate the necessity of retaining the child in custody, the officer shall release the child to the custody of his parent or if the child is committed, the Department of Juvenile Justice or the cabinet, as appropriate; or if the parent is not available, then a relative, guardian, or person exercising custodial control or supervision or other responsible person or agency approved by the court upon the written promise, signed by such person or agency, to bring the child to the court at a stated time or at such time as the court may order. The written promise, accompanied by a written report by the officer, shall be submitted forthwith to the court or court-designated worker and shall detail the reasons for having taken custody of the child, the release of the child, the person to whom the child was released, and the reasons for the release.

~~(4)(3)~~ *(a) If the person fails to produce the child as agreed or upon notice from the Court as provided in subsection (3) of this section, a summons, warrant, or custody order may be issued for the apprehension of the person or of the child, or both.*

(b) If the person notified to collect a suspected runaway pursuant to subsection (2)(a) of this section fails or refuses to collect the child, the peace officer shall notify the county attorney, who may file a charge of endangering the welfare of a minor, and the cabinet.

~~(5)(4)~~ The release of a child pursuant to this section shall not preclude a peace officer from proceeding with a complaint against a child or any other person.

~~(6)(5)~~ Unless the child is subject to trial as an adult, if the child is not released, the peace officer shall contact the court-designated worker who may:

- (a) Release the child to his parents;
- (b) Release the child to such other persons or organizations as are authorized by law;
- (c) Release the child to either of the above subject to stated conditions; or
- (d) Except as provided in subsection ~~(7)(6)~~ of this section, authorize the peace officer to retain custody of the child for an additional period not to exceed twelve (12) hours during which the peace officer may transport the child to a secure juvenile detention facility~~[- a juvenile holding facility,-]~~ or a nonsecure facility. If the child is retained in custody, the court-designated worker shall give notice to the child's parents or person exercising custodial control or supervision of the fact that the child is being retained in custody.

~~(7)(6)~~ (a) Except as provided in paragraph (b) of this subsection, no child ten (10) years of age or under shall be taken to or placed in a juvenile detention facility.

(b) Any child ten (10) years of age or under who has been charged with the commission of a capital offense or with an offense designated as a Class A or Class B felony may be taken to or placed in a secure juvenile detention facility or youth alternative center when there is no available less restrictive alternative.

NOTE: This is a lengthy bill that primarily addresses changes in the sentencing of juveniles. Although it makes a few changes that will directly and immediately affect Kentucky law enforcement officers, above, it does, in addition, provide for a juvenile council to be established that will include a law enforcement member, and which will be expected to develop, among other matters, recommendations for training for school resource and school security officers in juvenile justice issues. As such, additional changes are expected to be forthcoming in later legislative sessions.

SENATE BILL 213 SUNDAY ALCOHOLIC SALES

Section 1. KRS 244.290 is amended to read as follows:

* * * * *

(5) In any county containing a licensed small farm winery that is permitted to sell alcoholic beverages under KRS Chapter 242, the sale of alcoholic beverages at the small farm winery on Sunday may be permitted if:

(a) The legislative body of the county approves by local ordinance the sale of alcoholic beverages on Sunday in strict accordance with the sales permitted by Section 3 of this Act on the licensed premises of a small farm winery from 1 p.m. until the prevailing time for that locality; or

(b) A limited sale precinct election on the issue of Sunday sales is approved after meeting the requirements of Section 2 of this Act.

REMAINING SECTIONS RENUMBERED

SECTION 2. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

KRS 242.1241 Limited sale precinct election for sale of alcoholic beverages on Sunday at licensed small farm winery in wet territory.

(1) (a) If the sale of alcoholic beverages is permitted at a licensed small farm winery located in a wet territory, a limited sale precinct election may be held to authorize the sale of alcoholic beverages on Sunday at the small farm winery.

(b) The election shall be held in the same manner as prescribed by KRS 242.020 to 242.040 and 242.060 to 242.120.

(c) The petition seeking a limited sale precinct election under this section shall state, "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages on Sunday at a small farm winery located in (name of territory) between the hours of 1 p.m. and (the prevailing local time for that locality)?'"

(d) If the precinct contains a licensed small farm winery, the proposition to be voted on in the limited sale precinct election shall state, "Are you in favor of the sale of alcoholic beverages on Sunday at a licensed small farm winery or wineries located in (name of territory) between the hours of 1 p.m. and (the prevailing time for that locality)?"

(2) Notwithstanding KRS 242.030, a limited sale precinct election to authorize Sunday sales at a small farm winery may be held less than three (3) years after a local option election held in accordance with KRS 242.124 to authorize the sale of wine at that small farm winery.

Section 3. KRS 243.155 is amended to read as follows:

(1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The department shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.

(2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:

(a) Manufacture wines and bottle wines produced by that small farm winery;

(b) Bottle wines produced by another small farm winery;

(c) Serve on the premises or at small farm winery off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small farm winery or its off-premise retail site is located in wet territory;

(d) Sell by the drink or by the package on premises, at small farm winery off-premise retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small farm winery or produced by a licensed small farm winery, at retail to consumers if all sales sites are located in wet territory;

(e) Sell and transport wine produced on the premises of the small farm winery to wholesale license holders and small farm winery license holders;

(f) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm

winery is located in wet territory; and

(g) Ship to a customer wine produced by a small farm winery if:

1. The wine is shipped by licensed common carrier; and

2. The amount of wine shipped is limited to two (2) cases per customer per order.

(3) If a licensed small farm winery is located in a dry or moist territory, KRS 242.230 to 242.430 shall apply, unless a limited local option election is held in accordance with KRS 242.124. If the proposition under KRS 242.124 is approved, a licensed small farm winery within the precinct may sell wine in accordance with subsection (2) of this section.

(4) **If the requirements of subsection (5) of Section 1 of this Act relating to Sunday sales on the licensed premises of a small farm winery are met, a small farm winery within that territory may sell alcoholic beverages on Sunday only in accordance with this section between the hours of 1 p.m. until the prevailing time for that locality.**

(5) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small farm winery license holder may also hold an NQ2 retail drink license and an NQ4 retail malt beverage drink license if the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.

(6)(5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.

(7)(6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.

(8)(7) Upon the approval of the department, a small farm winery license may be renewed after the licensee submits to the department the winery's federal basic permit and proof of its annual wine production.

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SENATE BILL 225 VOYEURISM

Section 1. KRS 531.090 is amended to read as follows:

(1) A person is guilty of voyeurism when:

(a) He or she intentionally:

1. Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, **an undergarment worn without being publicly visible**, or nipple of the female breast of another person without that person's consent; or

2. Uses the unaided eye or any device designed to improve visual acuity for the purpose of observing or viewing the sexual conduct, genitals, **an undergarment worn without being publicly visible**, or nipple of the female breast of another person without that person's consent; or

3. Enters or remains unlawfully in or upon the premises of another for the purpose of observing or viewing the sexual conduct, genitals, **an undergarment worn without being publicly visible**, or nipple of the female breast of another person without the person's consent; and

(b) The other person is in a place where a reasonable person would believe that his or her sexual conduct, genitals, **undergarments**, or nipple of the female breast will not be observed, viewed, photographed, filmed, or videotaped without his or her knowledge.

- (2) The provisions of subsection (1) of this section shall not apply to:
 - (a) A law enforcement officer during a lawful criminal investigation; or
 - (b) An employee of the Department of Corrections, the Department of Juvenile Justice, a private prison, a local jail, or a local correctional facility whose actions have been authorized for security or investigative purposes.
- (3) Unless objected to by the victim or victims of voyeurism, the court on its own motion or on motion of the Commonwealth's attorney shall:
 - (a) Order the sealing of all photographs, film, videotapes, or other images that are introduced into evidence during a prosecution under this section or are in the possession of law enforcement, the prosecution, or the court as the result of a prosecution under this section; and
 - (b) At the conclusion of a prosecution under this section, unless required for additional prosecutions, order the destruction of all of the photographs, film, videotapes, or other images that are in possession of law enforcement, the prosecution, or the court.
- (4) Voyeurism is a Class A misdemeanor.

HOUSE

HOUSE BILL 5 PUBLIC RECORDS

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

KRS 61.931 Definitions for KRS 61.931 to 61.934.

As used in Sections 1 to 4 of this Act:

(1) "Agency" means:

(a) The executive branch of state government of the Commonwealth of Kentucky;

(b) Every county, city, municipal corporation, urban-county government, charter county government, consolidated local government, and unified local government;

(c) Every organizational unit, department, division, branch, section, unit, office, administrative body, program cabinet, bureau, board, commission, committee, subcommittee, ad hoc committee, council, authority, public agency, instrumentality, interagency body, special purpose governmental entity, or public corporation of an entity specified in paragraph (a) or (b) of this subsection or created, established, or controlled by an entity specified in paragraph (a) or (b) of this subsection;

(d) Every public school district in the Commonwealth of Kentucky; and

(e) Every public institution of postsecondary education, including every public university in the Commonwealth of Kentucky and public college of the entire Kentucky Community and Technical College System;

(2) "Commonwealth Office of Technology" means the office established by KRS 42.724;

(3) "Encryption" means the conversion of data using technology that:

(a) Meets or exceeds the level adopted by the National Institute of Standards Technology as part of the Federal Information Processing Standards; and

(b) Renders the data indecipherable without the associated cryptographic key to decipher the data;

(4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, unified local government, or any combination of these entities, responsible for the detection of crime and the enforcement of the general criminal federal and state laws;

(5) "Nonaffiliated third party" means any person that:

(a) Has a contract or agreement with an agency; and

(b) Receives personal information from the agency pursuant to the contract or agreement;

(6) "Personal information" means an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

(a) An account number, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;

(b) A Social Security number;

(c) A taxpayer identification number that incorporates a Social Security number;

(d) A driver's license number, state identification card number, or other individual identification number issued by any agency;

(e) A passport number or other identification number issued by the United States government; or

(f) Individually identifiable health information as defined in 45 C.F.R. sec. 160.103 except for education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. sec. 1232g;

(7) (a) "Public record or record," as established by KRS 171.410, means all books, papers, maps, photographs, cards, tapes, disks, diskettes, recordings, and other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency.

(b) "Public record" does not include any records owned by a private person or corporation that are not related to functions, activities, programs or operations funded by state or local authority;

(8) "Reasonable security and breach investigation procedures and practices" means data security procedures and practices developed in good faith and set forth in a written security information policy; and

(9) "Security breach" means:

(a) 1. The unauthorized acquisition, distribution, disclosure, destruction, manipulation, or release of unencrypted or unredacted records or data that compromises or the agency or nonaffiliated third party reasonably believes may compromise the security, confidentiality, or integrity of personal information and result in the likelihood of harm to one (1) or more individuals; or

2. The unauthorized acquisition, distribution, disclosure, destruction, manipulation, or release of encrypted records or data containing personal information along with the confidential process or key to unencrypt the records or data that compromises or the agency or nonaffiliated third party reasonably believes may compromise the security, confidentiality, or integrity of personal information and result in the likelihood of harm to one (1) or more individuals.

(b) "Security breach" does not include the good-faith acquisition of personal information by an employee, agent, or nonaffiliated third party of the agency for the purposes of the agency if the personal information is used for a purpose related to the agency and is not subject to unauthorized disclosure.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

KRS 61.932 Personal information security and breach investigation procedures and practices for certain public agencies and nonaffiliated third parties.

(1) (a) An agency or nonaffiliated third party that maintains or otherwise possesses personal information, regardless of the form in which the personal information is maintained, shall implement, maintain, and update security procedures and practices, including taking any appropriate corrective action, to protect and safeguard against security breaches.

(b) Reasonable security and breach investigation procedures and practices established and implemented by organizational units of the executive branch of state government shall be in accordance with relevant enterprise policies established by the Commonwealth Office of Technology. Reasonable security and breach investigation procedures and practices established and implemented by units of government listed under subsection (1)(b) of Section 1 of this Act and subsection (1)(c) of Section 1 of this Act that are not organizational

units of the executive branch of state government shall be in accordance with policies established by the Department for Local Government. The Department for Local Government shall consult with public entities as defined in KRS 65.310 in the development of policies establishing reasonable security and breach investigation procedures and practices for units of local government pursuant to this subsection. Reasonable security and breach investigation procedures and practices established and implemented by public school districts listed under subsection (1)(d) of Section 1 of this Act shall be in accordance with administrative regulations promulgated by the Kentucky Board of Education. Reasonable security and breach investigation procedures and practices established and implemented by educational entities listed under subsection (1)(e) of Section 1 of this Act shall be in accordance with policies established by the Council on Postsecondary Education. The Commonwealth Office of Technology shall, upon request of an agency, make available technical assistance for the establishment and implementation of reasonable security and breach investigation procedures and practices.

(c) 1. If an agency is subject to any additional requirements under the Kentucky Revised Statutes, or under federal law, protocols or agreements relating to the protection and privacy of personal information, the agency shall comply with these additional requirements, in addition to the requirements of Sections 1 to 4 of this Act.

2. If a nonaffiliated third party is required by federal law or regulation to conduct security breach investigations or to make notifications of security breaches, or both, as a result of the nonaffiliated third party's unauthorized disclosure of one (1) or more data elements of personal information that is the same as one (1) or more of the data elements of personal information listed in subsection (6)(a) to (f) of Section 1 of this Act, the nonaffiliated third party shall meet the requirements of Sections 1 to 4 of this Act by providing to the agency a copy of any and all reports and investigations relating to such security breach investigations or notifications that are required to be made by federal law or regulations. This subparagraph of this paragraph shall not apply if the security breach includes the unauthorized disclosure of data elements that are not covered by federal law or regulation but are listed in subsection (6)(a) to (f) of Section 1 of this Act.

(2) (a) For agreements executed or amended on or after January 1, 2015, any agency that contracts with a nonaffiliated third party and that discloses personal information to the nonaffiliated third party shall require as part of that agreement that the nonaffiliated third party implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices referenced in subsection (1)(b) of this section, and that are reasonably designed to protect the personal information from unauthorized access, use, modification, disclosure, manipulation, or destruction.

(b) 1. A nonaffiliated third party that is provided access to personal information by an agency, or that collects and maintains personal information on behalf of an agency shall notify the agency in the most expedient time possible and without unreasonable delay but within seventy-two (72) hours of determination of a security breach relating to the personal information in the possession of the nonaffiliated third party. The notice to the agency shall include all information the nonaffiliated third party has with regard to the security breach at the time of notification. Agreements referenced in subsection (2)(a) of this section shall specify how the cost of the notification and investigation requirements under Section 3 of this Act are to be apportioned when a security breach is suffered by the agency or nonaffiliated third party.

2. The notice required by subparagraph 1. of this paragraph may be delayed if a law enforcement agency notifies the nonaffiliated third party that notification will impede a criminal investigation or jeopardize homeland or national security. If notice is delayed pursuant to this paragraph, notification shall be given as soon as reasonably feasible by the nonaffiliated third party to the agency with which the nonaffiliated third party is contracting. The agency shall then record the notification in writing on a form developed by the Commonwealth Office of Technology that the notification will not impede a criminal investigation and will not jeopardize homeland or national security. The Commonwealth Office of Technology shall promulgate administrative regulations under Sections 1 to 4 of this Act regarding the content of the form.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

KRS 61.933 Notification of personal information security breach – Investigation – Notice of affected individuals of result of investigation – Personal information not subject to requirements – Injunctive relief by Attorney General.

(1) (a) Any agency that collects, maintains, or stores personal information that determines or is notified of a security breach relating to personal information collected, maintained, or stored by the agency or by a nonaffiliated third-party on behalf of the agency shall as soon as possible, but within seventy-two (72) hours of determination or notification of the security breach:

1. Notify the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Attorney General. In addition, an agency shall notify the Secretary of the Finance and Administration Cabinet or his or her designee if an agency is an organizational unit of the executive branch of state government; notify the Commissioner of the Department for Local Government if the agency is a unit of government listed in subsection (1)(b) of Section 1 of this Act or subsection (1)(c) of Section 1 of this Act that is not an organizational unit of the executive branch of state government; notify the Commissioner of the Kentucky Department of Education if the agency is a public school district listed in subsection (1)(d) of Section 1 of this Act; and notify the President of the Council on Postsecondary Education if the agency is an educational entity listed under subsection (1)(c) of Section 1 of this Act. Notification shall be in writing on a form developed by the Commonwealth Office of Technology. The Commonwealth Office of Technology shall promulgate administrative regulations under Sections 1 to 4 of this Act regarding the contents of the form; and

2. Begin conducting a reasonable and prompt investigation in accordance with the security and breach investigation procedures and practices referenced in subsection (1)(b) of this section to determine whether the security breach has resulted in or is likely to result in the misuse of the personal information.

(b) Upon conclusion of the agency's investigation:

1. If the agency determined that a security breach has occurred and that the misuse of personal information has occurred or is reasonably likely to occur, the agency shall:

a. Within forty-eight (48) hours of completion of the investigation, notify in writing all officers listed in subparagraph (1)(a)1. of this section, and the Commissioner of the Department for Libraries and Archives, unless the provisions of subsection (3) of this section apply;

b. Within thirty-five (35) days of providing the notifications required by subparagraph a. of this paragraph, notify all individuals impacted by the security breach as provided in

subsection (2) of this section, unless the provisions of subsection (3) of this section apply; and

c. If the number of individuals to be notified exceeds one thousand (1,000), the agency shall notify, at least seven (7) days prior to providing notice to individuals under subparagraph b. of this paragraph, the Commonwealth Office of Technology if the agency is an organizational unit of the executive branch of state government, the Department for Local Government if the agency is a unit of government listed under subsection (1)(b) of Section 1 of this Act or subsection (1)(c) of Section 1 of this Act that is not an organizational unit of the executive branch of state government, the Kentucky Department of Education if the agency is a public school district listed under subsection (1)(d) of Section 1 of this Act, or the Council on Postsecondary Education if the agency is an educational entity listed under subsection (1)(e) of Section 1 of this Act; and notify all consumer credit reporting agencies included on the list maintained by the Office of the Attorney General that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. sec. 1681a(p), of the timing, distribution, and content of the notice; or

2. If the agency determines that the misuse of personal information has not occurred and is not likely to occur, the agency is not required to give notice, but shall maintain records that reflect the basis for its decision for a retention period set by the State Archives and Records Commission as established by KRS 171.420. The agency shall notify the appropriate entities listed in subsection (1)(a)1. of this section that the misuse of personal information has not occurred.

(2) (a) The provisions of this subsection establish the requirements for providing notice to individuals under subsection (1)(b)1.b. of this section. Notice shall be provided as follows:

1. Conspicuous posting of the notice on the Web site of the agency;

2. Notification to regional or local media if the security breach is localized, and also to major statewide media if the security breach is widespread, including broadcast media, such as radio and television; and

3. Personal communication to individuals whose data has been breached using the method listed in subdivisions a., b., and c. of this subparagraph that the agency believes is most likely to result in actual notification to those individuals, if the agency has the information available:

a. In writing, sent to the most recent address for the individual as reflected in the records of the agency;

b. By electronic mail, sent to the most recent electronic mail address for the individual as reflected in the records of the agency, unless the individual has communicated to the agency in writing that they do not want email notification; or

c. By telephone, to the most recent telephone number for the individual as reflected in the records of the agency.

(b) The notice shall be clear and conspicuous, and shall include:

1. To the extent possible, a description of the categories of information that were subject to the security breach, including the elements of personal information that were or were believed to be acquired;

2. Contact information for the notifying agency, including the address, telephone number, and toll-free number if a toll-free number is maintained;

3. A description of the general acts of the agency, excluding disclosure of defenses used for the protection of information, to protect the personal information from further security

breach; and

4. The toll-free numbers, addresses, and Web site addresses, along with a statement that the individual can obtain information from the following sources about steps the individual may take to avoid identity theft, for:

a. The major consumer credit reporting agencies;

b. The Federal Trade Commission; and

c. The Office of the Kentucky Attorney General.

(c) The agency providing notice pursuant to this subsection shall cooperate with any investigation conducted by the agencies notified under subsection (1)(a) of this section and with reasonable requests from the Office of Consumer Protection of the Office of the Attorney General, consumer credit reporting agencies, and recipients of the notice, to verify the authenticity of the notice.

(3) (a) The notices required by subsection (1) of this section shall not be made if, after consultation with a law enforcement agency, the agency receives a written request from a law enforcement agency for a delay in notification because the notice may impede a criminal investigation. The written request may apply to some or all of the required notifications, as specified in the written request from the law enforcement agency. Upon written notification from the law enforcement agency that the criminal investigation has been completed, or that the sending of the required notifications will no longer impede a criminal investigation, the agency shall send the notices required by subsection (1)(b)1. of this section.

(b) The notice required by subsection (1)(b)1.b. of this section may be delayed if the agency determines that measures necessary to restore the reasonable integrity of the data system cannot be implemented within the timeframe established by subsection (1)(b)1.b. of this section, and the delay is approved in writing by the Office of the Attorney General. If notice is delayed pursuant to this subsection, notice shall be made immediately after actions necessary to restore the integrity of the data system have been completed.

(4) Any waiver of the provisions of this section is contrary to public policy and shall be void and unenforceable.

(5) This section shall not apply to:

(a) Personal information that has been redacted;

(b) Personal information disclosed to a federal, state, or local government entity, including a law enforcement agency or court, or their agents, assigns, employees, or subcontractors, to investigate or conduct criminal investigations and arrests, delinquent tax assessments, or to perform any other statutory duties and responsibilities;

(c) Personal information that is publicly and lawfully made available to the general public from federal, state, or local government records;

(d) Personal information that an individual has consented to have publicly disseminated or listed; or

(e) To any document recorded in the records of either a county clerk or circuit clerk of a county, or in the records of a United States District Court.

(6) The Office of the Attorney General may bring an action in the Franklin Circuit Court against an agency or a nonaffiliated third party that is not an agency, or both, for injunctive relief, and for other legal remedies against a nonaffiliated third party that is not an agency to enforce the provisions of Sections 1 to 4 of this Act. Nothing in Sections 1 to 4 of this Act shall create a private right of action.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

KRS 61.934 *Personal information security and breach investigation procedures and practices for legislative and judicial branches – Personal information disposal or destruction procedures.*

(1) *The legislative and judicial branches of state government shall implement, maintain, and update reasonable security and breach investigation procedures and practices, including taking any appropriate corrective action, to protect and safeguard against security breaches consistent with Sections 1 to 4 of this Act.*

(2) *The Department for Libraries and Archives shall establish procedures for the appropriate disposal or destruction of records that include personal information pursuant to the authority granted the Department for Libraries and Archives under Section 8 of this Act.*

Section 5. KRS 42.722 is amended to read as follows:

As used in KRS 42.720 to 42.742~~], unless the context requires otherwise~~:

* * * * *

(5) *"Personal information" has the same meaning as in Section 1 of this Act;*

(6) *"Project" means a program to provide information technologies support to functions within an executive branch state agency, which should be characterized by well-defined parameters, specific objectives, common benefits, planned activities, expected outcomes and completion dates, and an established budget with a specified source of funding.; and*

(7) *"Security breach" has the same meaning as in Section 1 of this Act.*

Section 6. KRS 42.726 is amended to read as follows:

KRS 42.726 Roles, duties and permissible activities for Commonwealth Office of Technology – Duties of Archives and Records Commission and Department for Libraries and Archives not affected – *Annual report concerning security breaches.*

(1) The roles and duties of the Commonwealth Office of Technology shall include but not be limited to:

(a) Providing technical support and services to all executive agencies of state government in the application of information technology;

(b) Assuring compatibility and connectivity of Kentucky's information systems;

(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture~~[- This specifically includes but is not limited to directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies];~~

(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

- (g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;
- (h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The executive director is authorized to grant or withhold approval to initiate these projects;
- (i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;
- (j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;
- (k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;
- (l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;
- (m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;
- (n) Providing staff support and technical assistance to the Geographic Information Advisory Council and the Kentucky Information Technology Advisory Council;
- (o) Overseeing the development of a statewide geographic information plan with input from the Geographic Information Advisory Council, ~~and~~
- (p) **Developing for state executive branch agencies a coordinated security framework and model governance structure relating to the privacy and confidentiality of personal information collected and stored by state executive branch agencies, including but not limited to:**
 - 1. Identification of key infrastructure components and how to secure them;**
 - 2. Establishment of a common benchmark that measures the effectiveness of security, including continuous monitoring and automation of defenses;**
 - 3. Implementation of vulnerability scanning and other security assessments;**
 - 4. Provision of training, orientation programs, and other communications that increase awareness of the importance of security among agency employees responsible for personal information; and**
 - 5. Development of and making available a cyber security incident response plan and procedure.**
- ~~(q)~~ Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.
- (2) The Commonwealth Office of Technology may:
 - (a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the executive director finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;
 - (b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;
 - (c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;
 - (d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other

conveyance to be held, used, and applied in accordance with KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Commonwealth Office of Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the executive director or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

(4) The Commonwealth Office of Technology shall, on or before October 1 of each year, submit to the Legislative Research Commission a report in accordance with KRS 57.390 detailing:

(a) Any security breaches that occurred within organizational units of the executive branch of state government during the prior fiscal year that required notification to the Commonwealth Office of Technology under Section 2 of this Act;

(b) Actions taken to resolve the security breach, and to prevent additional security breaches in the future;

(c) A general description of what actions are taken as a matter of course to protect personal data from security breaches; and

(d) Any quantifiable financial impact to the agency reporting a security breach.

Section 7. KRS 42.732 is amended to read as follows:

(1) There is hereby created the Kentucky Information Technology Advisory Council to:

(a) Advise the executive director of the Commonwealth Office of Technology on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities; ~~and~~

(b) Advise the executive director of the Commonwealth Office of Technology on coordination among and across the organizational units of the executive branch of state government to prepare for, respond to, and prevent attacks; and

(c) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.

(2) The Kentucky Information Technology Advisory Council shall consist of:

(a) The state budget director or a designee;

(b) The state librarian or a designee;

(c) One (1) representative from the public universities to be appointed by the Governor from a

- list of three (3) persons submitted by the Council on Postsecondary Education;
- (d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;
 - (e) Two (2) representatives of local government appointed by the Governor;
 - (f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;
 - (g) One (1) member of the media appointed by the Governor;
 - (h) The executive director of the Kentucky Authority for Educational Television;
 - (i) The chair of the Public Service Commission or a designee;
 - (j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;
 - (k) One (1) representative of the Administrative Office of the Courts;
 - (l) One (1) representative from the public schools system appointed by the Governor;
 - (m) One (1) representative of the Kentucky Chamber of Commerce; and
 - (n) The executive director of the Commonwealth Office of Technology.
- (3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.
- (4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.
- (5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.

Section 8. KRS 171.450 is amended to read as follows:

- (1) The department shall establish:
 - (a) Procedures for the compilation and submission to the department of lists and schedules of public records proposed for disposal;
 - (b) Procedures for the disposal or destruction of public records authorized for disposal or destruction, **including appropriate procedures to protect against unauthorized access to or use of personal information as defined by Section 1 of this Act,**
 - (c) Standards and procedures for recording, managing, and preserving public records and for the reproduction of public records by photographic or microphotographic process;
 - (d) Procedures for collection and distribution by the central depository of all reports and publications, except the Kentucky Revised Statutes editions, issued by any department, board, commission, officer or other agency of the Commonwealth for general public distribution after July 1, 1958.
- (2) The department shall enforce the provisions of KRS 171.410 to 171.740 by appropriate rules and regulations.
- (3) The department shall make copies of such rules and regulations available to all officials affected by KRS 171.410 to 171.740 subject to the provisions of KRS Chapter 13A.
- (4) Such rules and regulations when approved by the department shall be binding on all state and local agencies, subject to the provisions of KRS Chapter 13A. The department shall perform any acts deemed necessary, legal and proper to carry out the duties and responsibilities imposed upon it pursuant to the authority granted herein.

Section 9. KRS 171.680 is amended to read as follows:

- (1) The head of each state and local agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.
- (2) Such program shall provide for:
 - (a) Effective controls over the creation, maintenance, and use of records in the conduct of current business;
 - (b) Cooperation with the department in applying standards, procedures, and techniques designed to improve the management of records;
 - (c) Promotion of the maintenance and security of records deemed appropriate for preservation, and facilitation of the segregation and disposal of records of temporary value;
 - (d) Compliance with the provisions of KRS 171.410 to 171.740 and the rules and regulations of the department; **and**
 - (e) **Compliance with the provisions of Sections 1 to 4 of this Act.**

Section 10. The provisions of this Act shall not impact the provisions of KRS 61.870 to KRS 61.884.

Section 11. This Act takes effect January 1, 2015.

HOUSE BILL 69 BUSINESS RECORD FALSIFICATION DEVICES

SECTION 1. A NEW SECTION OF KRS CHAPTER 517 IS CREATED TO READ AS FOLLOWS:

KRS 517.130 Possession of automated business record falsification device.

- (1) A person is guilty of possession of an automated business record falsification device when he or she knowingly possesses any device or software program that falsifies the business records created by a point-of-sale system, such as any electronic device or computer system that keeps a register or supporting documents designed to record retail sales transaction information, by eliminating or manipulating true retail sales transaction information in order to represent a false record of transactions. These devices may also be referred to as "zappers" or "phantom-ware."***
- (2) Possession of an automated business record falsification device is a Class D felony.***
- (3) In addition to any other penalty provided by law:***
 - (a) Any person guilty of possession of an automated business record falsification device shall forfeit all proceeds associated with its creation, sale, or usage; and***
 - (b) An automated business record falsification device, and any device containing an automated business record falsification device, is contraband and shall be seized and forfeited to the state to be disposed of as provided in KRS 500.090.***

Section 2. KRS 139.760 is amended to read as follows:

- (1) Whenever any person fails to comply with any provisions of this chapter or any ~~administrative rule or~~ regulation of the department relating to the provisions of this chapter, the department may revoke or suspend any one (1) or more of the permits held by the person.
- (2) **Whenever any person uses an automated business record falsification device, as described in Section 1 of this Act, to violate any provision of this chapter or any administrative regulation of the department relating to the provisions of this chapter, the department shall revoke each permit held by the person for a period of ten (10) years.**

~~(3)~~ The department shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this chapter and the regulations relating thereto.

~~(4)(3)~~ No suit shall be maintained in any court to restrain or delay the collection or payment of any tax levied by this chapter.

HOUSE BILL 90 JUVENILE DRIVERS

Section 1. KRS 189.999 is amended to read as follows:

- (1) All offenses under this chapter classified as violations shall be prepayable except for:
 - (a) Any offense that could result in license suspension or revocation by the court or the Transportation Cabinet;
 - (b) Any offense relating to KRS 189.393, 189.520, or 189.580;
 - (c) When the defendant is speeding in a restricted zone;
 - (d) When the defendant is speeding more than twenty-five (25) miles per hour over the posted speed limit under KRS 189.394;
 - (e) An offense where evidence of the offense or of commission of another offense is seized by the officer and the citation is so marked and a court date set;
 - (f) The offense is cited with another offense that is not prepayable;
 - (g) When the defendant is under the age of eighteen (18); or**
 - ~~(h)(g)~~ An arrest is made under KRS 431.015.
- (2) In the event that a prepayable offense is cited with another offense that is not prepayable, a court appearance shall be required on all of the offenses as required by KRS 431.452.

Section 2. KRS 24A.175 is amended to read as follows:

KRS 24A.175 Court costs for criminal cases in District Court – Payment required – Exceptions – ***Treatment of minor defendant.***

- (1) Court costs for a criminal case in the District Court shall be one hundred dollars (\$100), regardless of whether the offense is one for which prepayment is permitted.
- (2) There shall be no court costs for a parking citation when:
 - (a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and
 - (b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.
- (3) The taxation of court costs against a defendant, upon conviction in a case, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be subject to probation, suspension, proration, deduction, or other form of nonimposition in the terms of a plea bargain or otherwise, unless the court finds that the defendant is a poor person as defined by KRS 453.190(2) and that he or she is unable to pay court costs and will be unable to pay the court costs in the foreseeable future.
- (4) If the court finds that the defendant does not meet the standard articulated in subsection (3) of this section and that the defendant is nonetheless unable to pay the full amount of the court costs, fees, and fines at the time of sentencing, then the court shall establish a show cause date by which time court costs, fees, and fines shall be paid and may establish an installment payment plan whereby the defendant pays the full amount of the court costs, fees, and fines to the circuit clerk in installments as established by the court. The court costs, fees, and fines under the installment plan shall be paid within one (1) year of the date of sentencing notwithstanding any remaining restitution

or other monetary penalty owed by the defendant and arising out of the conviction. Installment payments will be applied first to court costs, then to restitution, then to fees, and then to fines.

(5) Notwithstanding any other provision to the contrary, the court shall not adjudicate a traffic violation involving a defendant who is under the age of eighteen (18), unless the person that assumed liability of the minor under the provisions of KRS 186.590 is present. This subsection shall not apply to emancipated minors.

Section 3. This Act shall be known as the "Denzel Steward Act of 2014."

HOUSE BILL 98 HEALTH SERVICES IN SCHOOLS

Section 1. KRS 156.502 is amended to read as follows:

(1) As used in this section:

(a) "Health services" means the provision of direct health care, including the administration of medication; the operation, maintenance, or health care through the use of medical equipment; or the administration of clinical procedures. "Health services" does not include first aid or emergency procedures; and

(b) "School employee" means an employee of the public schools of this Commonwealth.

(2) Health services shall be provided, within the health care professional's current scope of practice, in a school setting by:

(a) A physician who is licensed under the provisions of KRS Chapter 311;

(b) An advanced practice registered nurse, registered nurse, or licensed practical nurse who is licensed under the provisions of KRS Chapter 314;

(c) A nonlicensed health technician that has the administration of health services in his or her contract or job description as a job responsibility and who is delegated responsibility to perform the health service by a physician, advanced practice registered nurse, or registered nurse and has been trained and approved in writing by the delegating physician or delegating nurse for delegable health services; or

(d)(e) A school employee who is delegated responsibility to perform the health service by a physician, advanced practice registered nurse, or registered nurse; and

1. Has been trained by the delegating physician or delegating nurse for the specific health service, if that health service is one that could be delegated by the physician or nurse within his or her scope of practice; and

2. Has been approved in writing by the delegating physician or delegating nurse. The approval shall state that the school employee consents to perform the health service when the employee does not have the administration of health services in his or her contract or job description as a job responsibility, possesses sufficient training and skills, and has demonstrated competency to safely and effectively perform the health service. The school employee shall acknowledge receipt of training by signing the approval form. A copy of the approval form shall be maintained in the student's record and the personnel file of the school employee. A delegation to a school employee under this paragraph shall be valid only for the current school year.

(3) If no school employee has been trained and delegated responsibility to perform a health service, the school district shall make any necessary arrangement for the provision of the health service to the student in order to prevent a loss of a health service from affecting the student's attendance or program participation. The school district shall continue with this arrangement until appropriate school personnel are delegated the responsibility for health care in subsection (2) of this section.

(4) A school employee who has been properly delegated responsibility for performing a medical procedure under this section shall act as an agent of the school and be granted liability protection under the Federal Paul P. Coverdell Teacher Liability Protection Act of 2001, Pub. L. No. 107-110, unless the claimant establishes by clear and convincing evidence that harm was proximately caused by an act or omission of the school employee that constitutes negligence, willful or criminal misconduct, or a conscious, flagrant indifference to the rights and safety of the individual harmed.

(5) Nothing in this section shall be construed to deny a student his or her right to attend public school and to receive public school services, or to deny, prohibit, or limit the administration of emergency first aid or emergency procedures.

Section 2. KRS 158.838 is amended to read as follows:

KRS 158.838 Emergency administration **and self-administration** of diabetes and seizure disorder medications – **Required training** – Required written statements – limitation on liability – Renewal of permission – Expiration dates of medication – **Self-performance of diabetes care tasks – Diabetes or seizure disorder not to prevent attendance at school the student would ordinarily attend.**

(1) **(a) Beginning July 15, 2014,** the board of each local public school district and the governing body of each private and parochial school or school district shall have at least one (1) school employee at each school who has met the requirements of KRS 156.502 on duty during the entire school day to administer **or assist with the self administration of** the following medication ~~in an emergency~~:

~~1. (a) Glucagon subcutaneously, using a glucagon emergency kit,~~ to students with diabetes who are experiencing hypoglycemia or other conditions noted in the health care practitioner's written statement under subsection (2)(b) of this section; ~~and~~

~~2. (b) Insulin subcutaneously, through the insulin delivery method used by the student and at the times and under the conditions noted in the health care practitioner's written statement under subsection (2)(b) of this section; and~~

~~3. A seizure rescue medication approved by the United States Food and Drug Administration and any successor agency;~~ ~~Diazepam rectal gel in a prefilled unit-dose delivery system.~~

(b) For those assigned the duties under paragraph (a) of this subsection, the training provided under KRS 156.502 shall include instruction in administering insulin and glucagon, as well as recognition of the signs and symptoms of hypoglycemia and hyperglycemia and the appropriate steps to be taken to respond to these symptoms.

(c) Any training program or guidelines adopted by any state agency for training of school personnel in the diabetes care tasks covered by this section shall be fully consistent with training programs and guidelines developed by the American Diabetes Association. Notwithstanding any state agency requirement or other law to the contrary, for purposes of this training a local school district shall be permitted to use any adequate and appropriate training program or guidelines for training of school personnel in the diabetes care tasks covered under this section.

(2) Prior to administering **any of the medications listed under subsection (1)(a) of this section**~~glucagon or diazepam rectal gel~~ to a student, the student's parent or guardian shall:

(a) Provide the school with a written authorization to administer the medication at school;

(b) Provide a written statement from the student's health care practitioner, which shall contain the following information:

1. Student's name;

2. The name and purpose of the medication;
 3. The prescribed dosage;
 4. The route of administration;
 5. The frequency that the medication may be administered; and
 6. The circumstances under which the medication may be administered; and
- (c) Provide the prescribed medication to the school in its unopened, sealed package with the label affixed by the dispensing pharmacy intact.
- (3) The statements required in subsection (2) of this section shall be kept on file in the office of the school nurse or school administrator.
- (4) The school district or the governing body of each private and parochial school or school district shall inform the parent or guardian of the student that the school and its employees and agents shall not incur any liability as a result of any injury sustained by the student from any reaction to any medication listed under subsection (1)(a) of this section that a parent or guardian has authorized the school district to administer to a student to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration, unless the injury is the result of negligence or misconduct on behalf of the school or its employees. The parent or guardian of the student shall sign a written statement acknowledging that the school shall incur no liability except as provided in this subsection, and the parent or guardian shall hold harmless the school and its employees against any claims made for any reaction to any medication listed under subsection (1)(a) of this section that a parent or guardian has authorized the school district to administer to a student to treat a hypoglycemic or hyperglycemic episode or a seizure or its administration if the reaction is not due to negligence or misconduct on behalf of the school or its employees.
- (5) The permission for the administration of any of the medications listed under subsection (1)(a) of this section ~~either glucagon or diazepam rectal gel~~ shall be effective for the school year in which it is granted and shall be renewed each following school year upon fulfilling the requirements of subsections (2) to (4) of this section.
- (6) The school nurse or school administrator shall check the expiration date monthly for each medication listed under subsection (1)(a) of this section that is ~~emergency glucagon kit or diazepam rectal gel prefilled unit dose delivery system~~ in the possession of the school. At least one (1) month prior to the expiration date of each medication, the school nurse or school administrator shall inform the parent or guardian of the expiration date.
- (7) Upon the written request of the parent or guardian of the student and written authorization by the student's health care practitioner, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin through the insulin delivery system the student uses, treat hypoglycemia and hyperglycemia, and otherwise attend to the care and management of his or her diabetes in the school setting and at school-related activities. A student shall be permitted to possess on his or her person at all times necessary supplies and equipment to perform these monitoring and treatment functions. Upon request by the parent or student, the student shall have access to a private area for performing diabetes care tasks.
- (8) (a) Beginning July 15, 2014, a school district shall permit a student who has diabetes or a seizure disorder to attend the same school the student would attend if the student did not have diabetes or a seizure disorder. Such a student may only be transferred to a different school based on health care needs if the individualized education program team, the Section 504 team, or if appropriate, the student's health services team, makes the determination that the student's health condition requires that the student's care be provided by a licensed health care professional at a different school. For the purpose of this determination, the

teams shall include the parent or guardian. The parent or guardian may invite the student's treating physician to the team meeting and the team shall consider the physician's input, whether in person or in written form, when making this determination. This determination shall be based on individualized factors related to the student's health conditions. A school district shall not prohibit a student who has diabetes or a seizure disorder from attending any school on the sole basis that:

1. The student has diabetes or a seizure disorder;
2. The school does not have a full-time school nurse; or
3. The school does not have school employees who are trained in accordance with KRS 156.502 and assigned to provide care under this section.

(b) Parents or guardians of students who have diabetes or a seizure disorder shall not be required or pressured by school personnel to provide care for a student with diabetes or a seizure disorder during regular school hours or during school-related activities in which the student is a participant. For the purposes of this paragraph, a participant is not a student who merely observes the activity.

(9) The requirements of subsections (1) to ~~(8)~~~~(6)~~ of this section shall apply only to schools that have a student enrolled who:

(a) Has a seizure disorder and has a seizure rescue medication approved by the United States Food and Drug Administration and any successor agency~~[diazepam rectal gel in a prefilled unit-dose delivery system]~~ prescribed by the student's health care provider; or

(b) Has diabetes mellitus and has any of the medications listed under subsection (1)(a) of this section~~[a glucagon emergency kit]~~ prescribed by the student's health care provider.

~~(10)~~~~(8)~~ Nothing in this section shall be construed to require a school employee to consent to administer medications listed under subsection (1)(a) of this section~~[glucagon or diazepam rectal gel]~~ to a student if the employee does not otherwise consent to provide the health service under KRS 156.502.

(11) Notwithstanding any other provision of the law to the contrary:

(a) The administration of the medications listed under subsection (1)(a) of this section by school employees shall not constitute the practice of nursing and shall be exempt from all applicable statutory and regulatory provisions that restrict the activities that may be delegated to or performed by a person who is not a licensed health care professional; and

(b) A licensed health care professional may provide training to or supervise school employees in the administration of the medications listed under subsection (1)(a) of this section.

Section 3. Whereas children that live with diabetes deserve the same educational opportunities as their classmates, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HOUSE BILL 99 CCDW (LEOSA)

Section 1. KRS 237.140 is amended to read as follows:

KRS 237.140 Certification for retired peace officer to carry concealed deadly weapon – Administrative regulations – Requirements – Firearms instruction.

(1) (a) Certification for a retired peace officer to carry a concealed deadly weapon pursuant to KRS 237.138 to 237.142 shall be administered by the Department of Kentucky State Police.

(b) Costs of certification shall be paid for by moneys generated by the concealed deadly weapon

license program under KRS 15.383 and collected by the Department of Kentucky State Police pursuant to that section.

(c) The Department of Kentucky State Police shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to implement the provisions of KRS 237.138 to 237.142. **The regulations shall allow the validity of any license or certifying documentation issued to the retired peace officer under this section to be extended in yearly increments not more than four (4) times. To facilitate this objective, the regulations may authorize the material required by subsection (2) of this section to be submitted to the person supervising the firearms qualifications under subsection (4)(b) of this section, with that person then submitting the material to the Department of Kentucky State Police and signing the license or certification in a manner that satisfies the requirements of federal law as to the retiree's passage of the required yearly firearms testing.**

(2) Each retired peace officer who desires certification to carry a concealed deadly weapon shall annually submit:

(a) Evidence of retired status to the commissioner of the Department of Kentucky State Police together with all information required by federal law, this section, and administrative regulations promulgated pursuant to this section;

(b) Evidence of successful completion of firearms qualification required under this section; and

(c) A notarized statement that he or she is not prohibited by state or federal law from possessing a firearm.

(3) Each law enforcement agency that employed the retired peace officer, or at which the retired peace officer served in an elected capacity, shall provide to the retired officer and the Department of Kentucky State Police the information required by federal law, this section, and the administrative regulations promulgated pursuant to this section in a prompt and efficient manner, without charge either to the Department of Kentucky State Police or the retiree.

(4) (a) Each retired peace officer shall annually fire twenty (20) rounds at an adult size silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times to obtain or maintain certification under KRS 237.138 to 237.142.

(b) The rounds fired pursuant to paragraph (a) of this subsection shall be done under the supervision of:

1. A firearms instructor of the retiree's former employing agency;

2. A currently certified peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course;

3. A Department of Criminal Justice Training certified police firearms instructor or instructor trainer; or

4. A Department of Criminal Justice Training certified concealed carry instructor or instructor trainer.

(c) A firearms instructor may, if not compensated pursuant to paragraph (d) of this subsection, charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.

(d) A local or state law enforcement agency that desires to conduct firearms qualification for its retirees shall schedule not less than two (2) dates for firearms qualification per year, and those dates shall be approximately six (6) months apart. The local or state law enforcement agency may charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of use of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but

not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.

(e) No employer or appointing authority of a firearms instructor who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course, Department of Criminal Justice Training certified police firearms instructor or instructor trainer, or Department of Criminal Justice Training certified concealed carry instructor or instructor trainer shall prohibit or in any way limit the instructor from qualifying active or retired peace officers in conformity with KRS 237.138 or 237.142 while that instructor is off duty. No employer or appointing authority of an instructor specified in this paragraph shall be liable in civil damages for the actions or omissions of the instructor during qualification of active or retired peace officers when that instructor is off duty.

HOUSE BILL 128 CCDW (LEOSA)

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he or she carries concealed a firearm or other deadly weapon on or about his or her person.

(2) Peace officers and certified court security officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) The director of the Division of Law Enforcement in the Department of Fish and Wildlife Resources, conservation officers of the Department of Fish and Wildlife Resources, and policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by law or by the government employing the officer.

(4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110 or 237.138 to 237.142, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:

1. A Commonwealth's attorney or assistant Commonwealth's attorney;
2. A retired Commonwealth's attorney or retired assistant Commonwealth's attorney;
3. A county attorney or assistant county attorney;
4. A retired county attorney or retired assistant county attorney;
5. A justice or judge of the Court of Justice; ~~and~~

6. A retired or senior status justice or judge of the Court of Justice; *and*

7. A retired peace officer who holds a concealed deadly weapon license issued pursuant to the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C, and KRS 237.138 to 237.142.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of Kentucky State Police.

(6) (a) Except provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:

1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;

2. An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and

3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(7) (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or

administered by the Administrative Office of the Courts.

(8) A loaded or unloaded firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in any enclosed container, compartment, or storage space installed as original equipment in a motor vehicle by its manufacturer, including but not limited to a glove compartment, center console, or seat pocket, regardless of whether said enclosed container, storage space, or compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a loaded or unloaded firearm or ammunition, or both, or other deadly weapon in a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction. This subsection shall not apply to any person prohibited from possessing a firearm pursuant to KRS 527.040.

(9) The provisions of this section shall not apply to a person who carries a concealed deadly weapon on or about his or her person without a license issued pursuant to KRS 237.110:

(a) If he or she is the owner of the property or has the permission of the owner of the property, on real property which he or she or his or her spouse, parent, grandparent, or child owns;

(b) If he or she is the lessee of the property or has the permission of the lessee of the property, on real property which he or she or his or her spouse, parent, grandparent, or child occupies pursuant to a lease; or

(c) If he or she is the sole proprietor of the business, on real property owned or leased by the business.

(10) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

Section 2. KRS 16.220 is amended to read as follows:

(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Department of Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. Any provision of KRS Chapter 45 or 45A relating to disposition of property to the contrary notwithstanding, the Department of Kentucky State Police shall:

(a) Conduct any auction specified by this section;

(b) Retain for departmental use twenty percent (20%) of the gross proceeds from any auction specified by this section; and

(c) Transfer remaining proceeds of the sale to the account of the Kentucky Office of Homeland Security for use as provided in subsection (4) of this section.

(2) Prior to the sale of any firearm, the Department of Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

(3) The Department of Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The department shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.

(4) The proceeds of firearms sales shall be utilized by the Kentucky Office of Homeland Security to provide grants to city, county, charter county, unified local government, urban-county government, and consolidated local government police departments; university safety and security departments organized pursuant to KRS 164.950; **school districts that employ special law enforcement officers as defined in KRS 61.900;** and sheriff's departments for the purchase of:

- (a) Body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments;
- (b) Firearms or ammunition; and
- (c) Electronic control devices, electronic control weapons, or electro-muscular disruption technology.

In awarding grants under this section, the Kentucky Office of Homeland Security shall give first priority to providing and replacing body armor and second priority to providing firearms and ammunition, with residual funds available for the purchase of electronic control devices, electronic control weapons, or electro-muscular disruption technology. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.

(5) The Department of Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of Justice, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

KRS 237.075 Chief law enforcement officer's certification for transfer or making of a firearm – Immunity from liability – Appeal of denial of certification request.

(1) For purposes of this section:

(a) "Certification" means the participation and assent of the chief law-enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm;

(b) "Chief law-enforcement officer" means the sheriff of the county of the applicant's residence, notwithstanding the provisions of 27 C.F.R. secs. 479.63 and 479.85; and

(c) "Firearm" has the same meaning as provided in the National Firearms Act, 26 U.S.C. § 5845 (a).

(2) (a) When a chief law enforcement officer's certification is required by federal law or regulation for the transfer or making of a firearm, the chief law-enforcement officer shall, within fifteen (15) days of receipt of a request for certification, provide this certification if the applicant is not prohibited by law from receiving or possessing the firearm and is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm. If the chief law enforcement officer is unable to make a certification as required by this section, he or she shall provide the applicant a written

notification of the denial and the reason for this determination.

(b) A chief law enforcement officer is not required to make any certification under this subsection he or she knows to be untrue, but he or she may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.

(3) Chief law-enforcement officers and their employees who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section.

(4) An applicant whose request for certification is denied may appeal the chief law-enforcement officer's decision to the Circuit Court that is located in the county in which the applicant resides. The court shall review the chief law-enforcement officer's decision to deny the certification de novo. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm, is not the subject of a proceeding that could result in such prohibition, and that no substantial evidence supports the chief law enforcement officer's determination that he or she cannot truthfully make the certification, the court shall order the chief law-enforcement officer to issue the certification and award court costs and reasonable attorney's fees to the applicant.

SECTION 4. A NEW SECTION OF KRS 403.715 TO 403.785 IS CREATED TO READ AS FOLLOWS:

KRS 403.754 Petitioner for protective order may apply for temporary permit to carry concealed deadly weapon – Criteria – Denial of application final – Conversion to concealed carry license – Automated listing of temporary permit holders.

(1) A petitioner for an order of protection granted under KRS 403.715 to 403.785 may apply for a temporary permit to carry a concealed deadly weapon on or about his or her person into those places and under the same conditions as a person holding a carry concealed deadly weapon license issued under KRS 237.110.

(2) To request a temporary permit authorized by this section, the petitioner shall apply electronically for a license to carry a concealed deadly weapon in the manner set forth in KRS 237.110 and administrative regulation promulgated by the Department of Kentucky State Police, unless the electronic application is unavailable. If the electronic application is unavailable, applications for temporary permits under this section shall not be accepted.

(3) Prior to the issuance of a temporary permit authorized by this section, the Department of Kentucky State Police, upon receipt of a completed application, application fee, and any documentation required by KRS 237.110 or administrative regulation promulgated by the Department of Kentucky State Police, shall conduct the background check as set forth in KRS 237.110.

(4) The Department of Kentucky State Police shall issue a temporary permit authorized by this section if the applicant is not disqualified under the standards set forth in KRS 237.110(4)(a) to (h).

(5) A temporary permit issued under this section shall be valid for forty-five (45) days from the date of issuance and not be subsequently extended or reissued. A temporary permit which has expired shall be void and shall not be valid for any purpose.

(6) The Department of Kentucky State Police shall, within one (1) working day or as soon as practically possible after the date of receipt of the completed application, a recent color photograph of the applicant, and, for applicants who are not citizens of the United States,

any documentation required under KRS 237.110, either issue the temporary permit or deny the application based solely on the grounds that the applicant fails to qualify under the criteria set forth in KRS 237.110.

(7) In order to convert the temporary permit issued under this section into a license to carry a concealed deadly weapon issued under KRS 237.110, the applicant shall meet the firearms safety training requirement under KRS 237.110(4) within the forty-five (45) day period the temporary permit is valid. If firearms safety training is not completed within the forty-five (45) day temporary permit period, a new application for a license to carry a concealed deadly weapon shall be required.

(8) If the Department of Kentucky State Police denies the application for a temporary permit, that decision shall be final but the applicant's application for a license to carry a concealed deadly license shall continue to be processed and either issued or denied in accordance with KRS 237.110.

(9) The holder of a permit issued under this section shall carry the permit at all times the permit holder is carrying a concealed firearm or other deadly weapon and shall display the permit upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.

(10) The Department of Kentucky State Police shall maintain an automated listing of temporary permit holders and pertinent information under the same circumstances and restrictions set forth in KRS 237.110.

(11) Nothing in this section shall authorize the carrying of a concealed deadly weapon by a person prohibited from possessing such a weapon by state or federal law.

Section 5. KRS 237.110 is amended to read as follows:

KRS 237.110 License to carry concealed deadly weapon – Criteria – Training – **Paper or electronic** application – Issuance and denial of licenses – Automated listing of license holders – Suspension or revocation – Renewal – Prohibitions – Reciprocity – Reports – Requirements for training classes.

(1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.

(2) An original or renewal license issued pursuant to this section shall:

(a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;

(b) Unless revoked **or suspended** as provided by law, be valid for a period of five (5) years from the date of issuance;

(c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and

(d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.

(3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police, **upon receipt of a completed application, applicable fees, and any documentation required by this section or administrative regulation promulgated by the Department of Kentucky State Police,** shall conduct a background check to ascertain

whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:

- (a) A state records check covering the items specified in this subsection, together with any other requirements of this section;
 - (b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check;
 - (c) A federal Immigration Alien Query if the person is an alien who has been lawfully admitted to the United States by the United States government or an agency thereof; and
 - (d) In addition to the Immigration Alien Query, if the applicant has not been lawfully admitted to the United States under permanent resident status, the Department of Kentucky State Police shall, if a doubt exists relating to an alien's eligibility to purchase a firearm, consult with the United States Department of Homeland Security, United States Department of Justice, United States Department of State, or other federal agency to confirm whether the alien is eligible to purchase a firearm in the United States, bring a firearm into the United States, or possess a firearm in the United States under federal law.
- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
- (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;
 - (b)
 - 1. Is a citizen of the United States who is a resident of this Commonwealth;
 - 2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky;
 - 3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, **and is a resident of this Commonwealth**; or
 - 4. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth;
 - (c) Is twenty-one (21) years of age or older;
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;
 - (f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;
 - (g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;
 - (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years

immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and

(i) Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:

1. Be not more than eight (8) hours in length;
2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and
4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503.

(5) (a) A legible photocopy or electronic copy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.

(b) Persons qualifying under subsection (6)(~~d~~)(~~e~~) of this section may submit with their application:

1. At least one (1) of the following paper or electronic forms or their successor forms showing evidence of handgun training or handgun qualifications:

a.~~1.~~ Department of Defense Form DD 2586;

b.~~2.~~ Department of Defense Form DD 214;

c.~~3.~~ Coast Guard Form CG 3029;

d.~~4.~~ Department of the Army Form DA 88-R;

e.~~5.~~ Department of the Army Form DA 5704-R;

f.~~6.~~ Department of the Navy Form OPNAV 3591-1; ~~for~~

g.~~7.~~ Department of the Air Force Form AF 522; or

2. a. Documentary evidence of an honorable discharge; and

b. A notarized affidavit on a form provided by the Department of Kentucky State Police, signed under penalty of perjury, stating the person has met the training requirements of subsection (6)(c) of this section.

(6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.

(b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:

1. Any peace officer employed by a federal agency specified in KRS 61.365;
2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;
3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army National Guard or Air National Guard who has successfully completed the military law enforcement training course required by that branch of the military; and

4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.

(c) Corrections officers who are currently employed by a county containing a consolidated local government or an urban-county government who have successfully completed a basic firearms training course required for their employment, and corrections officers who were formerly employed by a county containing a consolidated local government or an urban-county government who are retired, and who successfully completed a basic firearms training course required for their employment, and are members of a state-administered retirement system or other retirement system operated by or for a city, county, or urban-county government in Kentucky shall be deemed to have met the training requirement.

~~(d)(e)~~ Active or **honorably** discharged service members in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard shall be deemed to have met the training requirement if these persons:

1. Successfully completed handgun training ~~[of not less than four (4) hours,]~~ which was conducted by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard; or
2. Successfully completed handgun qualification within the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army Guard or Air Force National Guard.

(7) **(a) 1. A paper**~~The~~ application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from **and submitted to** the office of the sheriff in the county in which the person resides.

2. An applicant, in lieu of a paper application, may submit an electronic application for a license, or renewal of a license, to carry a concealed deadly weapon to the Department of Kentucky State Police.

3. Persons qualifying under subsection (6)~~(d)(e)~~ of this section shall be supplied the information in subsection (4)(i)4. of this section upon obtaining an application.

(b) 1. The completed **paper** application and **any documentation required by this section**~~all accompanying material]~~ plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides.~~[A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees.]~~

2. The sheriff shall transmit the **paper** application and accompanying material to the Department of Kentucky State Police within five (5) working days.

3. Twenty dollars (\$20) of the **paper** application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons.

(c) 1. A completed electronic application submitted in lieu of a paper

application, any documentation required by this section, and an application fee or renewal fee, as appropriate, of seventy dollars (\$70) shall be presented to the Department of Kentucky State Police.

2. If an electronic application is submitted in lieu of a paper application, thirty dollars (\$30) of the electronic application fee shall be retained by the Department of Kentucky State Police. Twenty dollars (\$20) shall be sent to the office of the sheriff of the applicant's county of residence for official expenses of the office. Ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapon carry permit.

(d) A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council and who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020, or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county government in Kentucky, shall be exempt from paying the paper or electronic application or renewal fees.

(e) The application *whether paper or electronic*, shall be completed, under oath, on a form *or in a manner* promulgated by the Department of Kentucky State Police by administrative regulation which shall ~~only~~ include:

1. ~~a.[(a) 1.]~~ The name, address, place and date of birth, citizenship, gender, Social Security number of the applicant; and

~~b.[(2)]~~ If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;

~~2.[(b)]~~ A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;

~~3.[(c)]~~ A statement that the applicant, if qualifying under subsection (6)(c) of this section, has provided:

a. At least one (1) of the forms listed in subsection (5) of this section; or

b. i. Documentary evidence of an honorable discharge; and

ii. A notarized affidavit on a form provided by the Department of Kentucky State Police stating the person has met the training requirements of subsection (6)(c) of this section;

4. A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

~~5.[(d)]~~ A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

~~6.[(e)]~~ A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(8) The applicant, ~~if a resident of the Commonwealth,~~ shall submit to the sheriff of the applicant's county of residence *or county of military posting if submitting a paper application, or to the Department of Kentucky State Police if submitting an electronic application*:

(a) A completed application as described in subsection (7) of this section;

- (b) A recent color photograph of the applicant, as prescribed by administrative regulation;
- (c) A **paper or electronic** ~~photocopy of a~~ certificate or an affidavit or document as described in subsection (5) of this section; ~~and~~
- (d) **A paper or electronic document establishing the training exemption as described in subsection (6) of this section; and**
- (e) For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, **an affidavit as prescribed by administrative regulation concerning his or her immigration status and** his or her United States government issued:
 1. Permanent Resident Card I-551 or its equivalent successor identification;
 2. Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and
 3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.

(9) The Department of Kentucky State Police shall, within sixty (60) days after the date of receipt of the items listed in subsection (8) of this section **if the applicant submitted a paper application, or within fifteen (15) business days after the date of receipt of the items listed in subsection (8) of this section if the applicant applied electronically** ~~from the sheriff~~, either:

- (a) Issue the license; or
- (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available ~~on-line~~ upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available **to law enforcement agencies** ~~on-line~~. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information **to any requester** not entitled to it by law.

(11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) **for a paper request, or twenty-five dollars (\$25) for an electronic request submitted in lieu of a paper request,** to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.

(13) (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.

(b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.

(c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:

1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or

2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.

(d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.

(e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.

(f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.

(g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.

(h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.

(i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.

(j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.

(k) When a domestic violence order or emergency protective order is issued pursuant to the

provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the *paper* renewal form, **or by filing with the Department of Kentucky State Police an electronic renewal form in lieu of a paper renewal form**~~a notarized affidavit~~ stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee **set forth in subsection (7) of this section.** The sheriff shall issue to the applicant a receipt for the *paper* application for renewal of the license and shall date the receipt. **The Department of Kentucky State Police shall issue to the applicant a receipt for an electronic application for renewal of the license submitted in lieu of a paper application for renewal and shall date the receipt.**

(b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.

(c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.

(15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.

(16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

- (a) Any police station or sheriff's office;
- (b) Any detention facility, prison, or jail;
- (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
- (d) Any meeting of the governing body of a county, municipality, or special district; or any

meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.

(19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the

provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(20) (a) A person who is not a resident of Kentucky and who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.

(b) If a person with a valid license to carry a concealed deadly weapon issued from another state that has entered into a reciprocity agreement with the Department of Kentucky State Police becomes a resident of Kentucky, the license issued by the other state shall be considered as valid for the first one hundred and twenty (120) days of the person's residence in Kentucky, if within sixty (60) days of moving to Kentucky, the person completes a form promulgated by the Department of Kentucky State Police which shall include:

1. A signed and notarized statement averring that to the best of his or her knowledge the person's license to carry a concealed deadly weapon is valid and in compliance with applicable out-of-state law, and has not been revoked or suspended for any reason except for valid forfeiture due to departure from the issuing state;

2. The person's name, date of birth, citizenship, gender, Social Security number if applicable, proof that he or she is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, former out-of-state address, current address within the state of Kentucky, date on which Kentucky residence began, state which issued the concealed carry license, the issuing state's concealed carry license number, and the state of issuance of license; and

3. A photocopy of the person's out-of-state license to carry a concealed deadly weapon.

(c) Within sixty (60) days of moving to Kentucky, the person shall deliver the form and accompanying documents by registered or certified mail, return receipt requested, to the address indicated on the form provided by the Department of Kentucky State Police pursuant to this subsection.

(d) The out-of-state concealed carry license shall become invalid in Kentucky upon the earlier of:

1. The out-of-state person having resided in Kentucky for more than one hundred twenty (120) days; or

2. The person being issued a Kentucky concealed deadly weapon license pursuant to this section.

(e) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every twelve (12)~~six (6)~~ months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky

residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each twelve (12)~~six (6)~~ months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and

certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;

(j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(k) The following shall be in effect:

1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;

2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

HOUSE BILL 179 LAW ENFORCEMENT SERVICE WEAPONS

Section 1. KRS 65.041 is amended to read as follows:

KRS 45A.343 and 45A.425 to the contrary notwithstanding:

(1) When a police department, sheriff's department, or other agency of city, county, urban-county, or charter county government or other unit of local government disposes of firearms or ammunition owned by that unit of local government, the disposition shall be by:

(a) Public auction to persons eligible under federal law to purchase the type of firearm or ammunition being offered for sale;

(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency;~~or~~

(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display;**or**

(d) Sale to the officer to whom the firearm was issued, upon his or her retirement, if all of the following provisions are satisfied:

1. The firearm was issued to the officer as his or her primary service weapon;

2. The officer is otherwise authorized by law to own or possess the firearm; and

3. The sale price of the firearm is the fair market value of the firearm, not to exceed the actual cost of the firearm to the unit of government.

(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government.

HOUSE BILL 183 CITY CIVIL SERVICE

Section 1. KRS 90.310 is amended to read as follows:

(1) **Except as provided in subsection (5) of this section,** any city of the second or third class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission which shall hold examinations as to the qualifications of applicants for municipal employment within the several departments of the city that are designated by ordinance. In all cities of the second class, and in cities of the third class, the city may, by ordinance, classify employees and designate the class of employees it desires to include.

(2) The mayor, subject to the approval of the city legislative body, shall appoint at least three (3) but no more than five (5) persons who shall constitute the civil service commission of that city. Each appointee shall be at least thirty (30) years of age and not related by either blood or marriage to the mayor or any member of the city legislative body. The appointees shall originally be appointed one (1) for a term of three (3) years, one (1) for a term of two (2) years and all remaining appointments shall be for a term of one (1) year, and the successors to these appointees shall be appointed in like manner, each for a period of three (3) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment, if the mayor elects to appoint only three (3) commissioners, not more than two (2) commissioners shall be adherents of the same political party. If the mayor elects to appoint more than three (3) commissioners not more than three (3) commissioners shall be adherents of the same political party. The appointee originally appointed for the term of three (3) years shall be secretary of the commission. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the commission may be fixed by the city legislative body.

(3) If the appointing authority of any city fails to appoint a civil service commission within thirty (30) days after he has the power to so appoint or after a vacancy exists, the mayor pro tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.

(4) The civil service commission shall make and enforce rules, not inconsistent with the provisions of KRS 90.310 to 90.410 or the ordinances of the city, for examinations and registrations therefor.

(5) No city shall adopt an ordinance pursuant to this section to create a civil service commission during the months of November or December in any even-numbered year.

(6) Any city that creates a civil service commission pursuant to this section may repeal or amend the ordinance at the discretion of the city legislative body. The city legislative body shall not repeal any provisions of the ordinance governing the maintenance of a pension fund.

Section 2. KRS 95.761 is amended to read as follows:

(1) Any city of the fourth or fifth class which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments. **If a city elects to establish a civil service system for its police and fire employees, under this subsection, it may adopt either KRS 95.761, 95.762, 95.763, 95.764, 95.765, and 95.766 or KRS 90.300 to 90.420. A city of the fourth or fifth class may adopt KRS 90.300 to 90.420 for municipal employees who are not police or fire personnel.**

(2) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and firefighters' pension fund, the same as a city of the third class.

(3) A city of the fourth or fifth class ~~is authorized to adopt the provisions of KRS 90.300 to 90.420 governing civil service, the same as a city of the third class, and~~ may provide a retirement system for any of its employees, including police and firefighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and firefighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(4) A city of the fourth or fifth class may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employees, or KRS 95.767 to 95.784 for its police and firefighters.

(5) The legislative body of the city of the fourth or fifth class may not establish or continue a retirement system for any of its employees unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section, or unless the city adopts a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. If a city has adopted a retirement system but has not done so pursuant to the options listed in this subsection or in subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems. After adoption of the provisions of any of the statutes listed in **subsection (2), (3) or (4) of** this section, the city may not

revoke, rescind or repeal these adoptions for any employee covered thereby.

(6) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of firefighters and assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(7) After August 1, 1988, no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852, or by adopting a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. Any city which adopted a pension system pursuant to this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(8) Notwithstanding subsection (1) of this section, no city shall adopt a civil service system for any of its employees under KRS 90.300 to 90.420 or under KRS 95.761, 95.762, 95.763, 95.764, 95.765, and 95.766 during the months of November or December in any even-numbered year.

(9) Any city that creates a civil service commission pursuant to this section may repeal or amend the ordinance at the discretion of the city legislative body. The city legislative body shall not repeal any provisions of the ordinance governing the maintenance of a pension fund.

HOUSE BILL 218 MOTOR VEHICLE INSURANCE

Section 1. KRS 304.39-117 is amended to read as follows:

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle. An insurer may provide an insurance card in either a paper or an electronic format.

(2) **If an owner enters into an insurance contract on a newly acquired motor vehicle, or changes insurance carriers on an existing motor vehicle,** the owner shall keep the paper insurance card or a portable electronic device to download the insurance card in his or her motor vehicle **for forty-five (45) days from the date the coverage took effect** as prima facie evidence ~~except as provided in subsection (3) of this section,~~ that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(3) ~~[On and after January 1, 2006,]~~ As to personal motor vehicles as defined in KRS 304.39-087, the paper or electronic insurance card ~~or and~~ the database created by KRS 304.39-087 shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept a paper or electronic insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was effective no more than forty-five (45) days before the date on which the peace officer requests the card.

(4) For purposes of this section:

(a) An insurance card in an electronic format means the display of an image on any portable electronic device, including a cellular phone or any other type of portable electronic device, depicting a current valid representation of the card;

(b) Whenever a person presents a mobile electronic device pursuant to this section, that person assumes all liability for any damage to the mobile electronic device; and

(c) When a person provides evidence of financial responsibility using a mobile electronic device to a peace officer, the peace officer shall only view the electronic image of the insurance card and is prohibited from viewing any other content on the mobile electronic device.

HOUSE BILL 232 SECURITY BREACH NOTIFICATIONS

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

KRS 365.732 Notification to affected persons of computer security breach involving their unencrypted personally identifiable information.

(1) As used in this section, unless the context otherwise requires:

(a) "Breach of the security of the system" means unauthorized acquisition of unencrypted and unredacted computerized data that compromises the security, confidentiality, or integrity of personally identifiable information maintained by the information holder as part of a database regarding multiple individuals that actually causes, or leads the information holder to reasonably believe has caused or will cause, identity theft or fraud against any resident of the Commonwealth of Kentucky. Good faith acquisition of personally identifiable information by an employee or agent of the information holder for the purposes of the information holder is not a breach of the security of the system if the personally identifiable information is not used or subject to further unauthorized disclosure;

(b) "Information holder" means any person or business entity that conducts business in this state; and

(c) "Personally identifiable information" means an individual's first name or first initial and last name in combination with any one (1) or more of the following data elements, when the name or data element is not redacted:

1. Social Security number;

2. Driver's license number; or

3. Account number, credit or debit card number, in combination with any required security code, access code, or password permit access to an individual's financial account.

(2) Any information holder shall disclose any breach of the security of the system, following discovery or notification of the breach in the security of the data, to any resident of Kentucky whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (4) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(3) Any information holder that maintains computerized data that includes personally identifiable information that the information holder does not own shall notify the owner or licensee of the information of any breach of the security of the data as soon as reasonably practicable following discovery, if the personally identifiable information was, or is

reasonably believed to have been, acquired by an unauthorized person.

(4) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made promptly after the law enforcement agency determines that it will not compromise the investigation.

(5) For purposes of this section, notice may be provided by one (1) of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. sec. 7001; or

(c) Substitute notice, if the information holder demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds five hundred thousand (500,000), or the information holder does not have sufficient contact information. Substitute notice shall consist of all of the following:

1. E-mail notice, when the information holder has an e-mail address for the subject persons;

2. Conspicuous posting of the notice on the information holder's Internet Web site page, if the information holder maintains a Web site page; and

3. Notification to major statewide media.

(6) Notwithstanding subsection (5) of this section, an information holder that maintains its own notification procedures as part of an information security policy for the treatment of personally identifiable information, and is otherwise consistent with the timing requirements of this section, shall be deemed to be in compliance with the notification requirements of this section, if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(7) If a person discovers circumstances requiring notification pursuant to this section of more than one thousand (1,000) persons at one (1) time, the person shall also notify, without unreasonable delay, all consumer reporting agencies and credit bureaus that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. sec. 1681a, of the timing, distribution, and content of the notices.

(8) The provisions of this section shall not apply to any person who is subject to the provisions of Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, as amended, or the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended, or any agency of the Commonwealth of Kentucky or any of its local governments or political subdivisions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

KRS 365.734 Prohibited uses of personally identifiable student information by cloud computing service provider – Administrative regulations.

(1) As used in this section:

(a) "Cloud computing service" means a service that provides, and that is marketed and designed to provide, an educational institution with account-based access to online computing resources;

(b) "Cloud computing service provider" means any person other than an educational institution that operates a cloud computing service;

(c) "Educational institution" means any public, private, or school administrative unit serving students in kindergarten to grade twelve (12);

(d) "Person" means an individual, partnership, corporation, association, company, or any other legal entity;

(e) "Process" means to use, access, collect, manipulate, scan, modify, analyze, transform, disclose, store, transmit, aggregate, or dispose of student data;

(f) "Student data" means any information or material, in any medium or format, that concerns a student and is created or provided by the student in the course of the student's use of cloud computing services, or by an agent or employee of the educational institution in connection with the cloud computing services. Student data includes the student's name, email address, email messages, postal address, phone number, and any documents, photos, or unique identifiers relating to the student.

(2) A cloud computing service provider shall not process student data for any purpose other than providing, improving, developing, or maintaining the integrity of its cloud computing services, unless the provider receives express permission from the student's parent. However, a cloud computing service provider may assist an educational institution to conduct educational research as permitted by the Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. sec. 1232g. A cloud computing service provider shall not in any case process student data to advertise or facilitate advertising or to create or correct an individual or household profile for any advertisement purpose, and shall not sell, disclose, or otherwise process student data for any commercial purpose.

(3) A cloud computing service provider that enters into an agreement to provide cloud computing services to an educational institution shall certify in writing to the educational institution that it will comply with subsection (2) of this section.

(4) The Kentucky Board of Education may promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to carry out the requirements of this section.

HOUSE BILL 260

ALL TERRAIN VEHICLES

Section 1. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person sixteen (16) years of age or older operating an all-terrain vehicle on public property shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:

- (a) Farm or agriculture related activities;
- (b) Mining or mining exploration activities;
- (c) Logging activities;
- (d) Any other business, commercial, or industrial activity;~~[-or]~~
- (e) Use of that vehicle on private property;or

(f) The crossing of a public roadway with a posted speed limit of fifty-five (55) miles per hour or less. The crossing of a public roadway outlined in this paragraph shall be in compliance with subsection (6)(a) of this section.

(5) (a) A person under the age of sixteen (16) years shall not operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.

(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

(c) A person under the age of sixteen (16) years, when operating or riding as a passenger on an all-terrain vehicle, shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

HOUSE BILL 281 SPECIAL LICENSE PLATES (FOP)

Section 1. KRS 186.162 is amended to read as follows:

(1) As used in this section and in KRS 186.043, 186.164, 186.166, 186.1722, and 186.174:

(a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

(b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

(c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

* * * * *

- (k) Fraternal Order of Police:
1. Initial Fee: ~~\$38~~~~[\$45]~~ (~~\$25~~~~[\$37]~~ SF/\$3 CF/~~\$10~~~~[\$5]~~ EF to the Kentucky FOP Death Benefit Fund).
 2. Renewal Fee: \$25 (\$12 SF/\$3 CF/\$10 EF to the Kentucky FOP Death Benefit Fund).

HOUSE BILL 331 MUNICIPAL CLASSIFICATION

NOTE: This bill is extremely lengthy. The following has been heavily edited to focus only upon the provisions of specific interest to law enforcement. It is available in its entirety on the Legislative Research Commission website at www.lrc.ky.gov

AN ACT relating to municipal classification.

WHEREAS, Section 156 of the Constitution was repealed and Section 156a of the Constitution was ratified in 1994, authorizing the General Assembly to provide for the classification of cities as it deems necessary based on population, tax base, form of government, geography, or any other reasonable basis, and to enact legislation relating to the classifications; and

WHEREAS, in devising a classification system for cities, certain sections of the Constitution, including Section 160, use the classes of the system in use at the time of the ratification of the 1891 Constitution and the ratification of the 1994 amendments to that Constitution; and

WHEREAS, the General Assembly, in invoking its authority to devise a new classification system under the broad authority of Section 156a of the Constitution does not intend to render any part of the Constitution without meaning, but may necessarily and as a part of devising a new classification system, may need to use new terms or define existing classification terms in these constitutional sections, all of which pre-date the 1994 ratified amendments, within the context of the revised classification system.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

KRS 81.005 Classification of cities.

(1) Cities shall be organized into two (2) classes based on the form of their respective government. The two (2) classes of cities shall be:

(a) First class, which shall include cities organized and operating under the mayor-alderman plan of government in accordance with KRS Chapter 83; and

(b) Home rule class, which shall include any city government organized and operating

under the following classes of government:

1. City manager plan of government in accordance with KRS 83A.150;
2. Mayor-council plan of government in accordance with KRS 83A.130; or
3. Commission plan of government in accordance with KRS 83A.140.
- (2) Cities incorporated before January 1, 2015, shall be classified in accordance with the classes set out in subsection (1) of this section on January 1, 2015.
- (3) When a city is incorporated on or after January 1, 2015, that city's initial classification shall be the form of government designated by the court upon incorporation in accordance with Section 4 of this Act.
- (4) A city shall be deemed to be reclassified to the class designated under subsection (2) of this section upon the effective date of a change in the form of government pursuant to Section 7 of this Act.
- (5) When a city changes class, it shall thereafter be governed by the laws relating to the class to which it is assigned, but the change from one (1) class to another shall not affect any ordinance previously enacted by the city, except that any ordinance in conflict with the laws relating to cities of the class to which the city is assigned shall be repealed to the extent the ordinance so conflicts.
- (6) A city that is reclassified shall provide the Secretary of State written notice of the reclassification, including the effective date of the reclassification no later than thirty (30) days after the effective date of the reclassification pursuant to Section 7 of this Act.
- (7) In order to update the record of incorporation of cities in the Secretary of State's office, every city operating as a public corporation and a unit of local government shall file with the Secretary of State before January 1, 2015, a document listing the name of the city, the year of its incorporation, form of government, and the classification assigned the city by this section. If a city fails to comply with this subsection, it shall be barred from receiving state moneys until such time as the city complies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

KRS 81.006 Certification of city's population if different than shown on most recent federal decennial census.

- (1) If the General Assembly establishes a population requirement for cities and bases that population requirement upon the most recent federal decennial census, a city may file a petition with the circuit clerk of the county in which the city, or the largest part of the city, is contained, if the city is in more than one (1) county, and, as a consequence, more than one (1) judicial circuit, to certify the city's population at a number different than shown by the most recent federal decennial census.
- (2) The petition shall be presented in the form of a resolution passed by the city legislative body and shall contain:
 - (a) An accurate map of the city;
 - (b) An affidavit certifying new growth of the city that may be through any of the following:
 1. Annexation since the most recent federal decennial census;
 2. Property valuation records;
 3. Population counts conducted by the city, or by a person contracted with the city;
 4. Census estimates of the United States Bureau of Census; and
 5. Any other data that the city may provide to certify the additional growth of the city since the most recent federal decennial census.

(3) The petition shall be docketed for hearing not less than sixty (60) days from the date of filing the petition. Notice of the filing of the petition and of its object shall be given by publication pursuant to KRS Chapter 424.

(4) At the hearing, the court shall, if the proper notice has been given and publication made and no defense is interposed, enter a judgment declaring the city's population as requested by the petition filed pursuant to this section, if the court finds that the information provided pursuant to subsection (2) of this section is accurate.

(5) Defense may be made to the petition by any resident of the city and, if so, the court shall hear and determine the same, and render a judgment either declaring the city's population as requested by the petition, or by refusing to declare the city's population as requested by the petition. If the court refuses to declare the city's population as requested by the petition, then the population as determined by the most recent federal decennial census shall remain effective for determining the city's population pursuant to the requirements in state law. If the court finds in favor of the petitioners, the court shall in the judgment direct the clerk of the court wherein the judgment is entered to, not later than ten (10) days thereafter, certify a copy thereof to the county clerk who shall properly index and file the judgment as a permanent record in his office.

(6) A judgment of the court of the city's population shall be used to determine the city's population for any population requirements established by the General Assembly wherein the most recent federal decennial census is used to measure the population of a city.

(7) At the time of the federal decennial census next following any judgment of the court finding the city's population to be different than that of the federal decennial census, the judgment shall expire and that population determination of the most recent federal decennial census shall be used to determine the population for any population requirements established by the General Assembly until such time a city petitions the court for a determination of population under the provisions of this section.

Section 3. KRS 81.028 is amended to read as follows:

~~KRS 81.028 Effect of reclassification of city in county containing consolidated local government or city of first class as city of second class on personnel and retirement systems and police and fire protection services.~~

~~(1) Any city located in a county containing a consolidated local government~~~~or a city of the first class~~~~which was~~~~is~~~~reclassified as a city of the second class after March 16, 2000,~~ **but prior to January 1, 2015, under a classification system in effect before January 1, 2015,** shall be exempt from the provisions of KRS 90.300 to 90.400, 95.430 to 95.500, and 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems in cities~~of the second class~~.

~~(2) In lieu of the requirements of these statutes, any city reclassified~~ **under the conditions set out in subsection (1) of this section**~~as a city of the second class~~ shall ensure that police and fire protection services are provided for the citizens of the city in the same manner and at least at the same level of service as was being provided prior to the reclassification.

~~(3) Nothing in this section shall prevent a city from restructuring or creating a new civil service system, police department, or fire department after a reclassification~~ **under the conditions set out in subsection (1) of this section**~~to a city of the second class~~. Any city that restructures or creates a new civil service system, police department, or fire department may adopt any of the provisions of KRS 90.300 to 90.400, 95.430 to 95.500, and 95.851 to 95.991 relating to the organization and structure of civil service systems, police departments, fire departments, and pension systems~~in~~.

~~cities of the second class.~~

(4) If fire protection service ~~was~~^{is} being provided by a fire protection district in any city that ~~was~~^{is} reclassified **under the conditions set out in subsection (1) of this section**~~as a city of the second class~~, the reclassification shall in no way affect the operations of the fire protection district and the services it provides. If at any time after a city is reclassified~~as a city of the second class~~, the fire protection district ceases to exist or fails to adequately provide for the fire protection needs of the city, the city shall have the right to create its own fire department or secure some other means for the provision of adequate fire protection services.

Section 4. KRS 81.060 is amended to read as follows:

(1) At the hearing the court shall, if the proper notice has been given or publication made, and no defense is interposed, enter a judgment establishing a city as requested by the petition, filed pursuant to KRS 81.050, if the court finds as a matter of law that the following standards have been met:

- (a) At least three hundred (300) persons reside in the territory sought to be incorporated;
- (b) Incorporation constitutes a reasonable way of providing the public services sought by the voters or property owners of the territory, and there is no other reasonable way of providing the services;
- (c) The territory is contiguous;
- (d) The territory is able to provide necessary city services to its residents within a reasonable period after its incorporation; and
- (e) The interest of other areas and adjacent local governments is not unreasonably prejudiced by the incorporation.

(2) In determining whether the standards for incorporation have been met, the court shall consider, but shall not be limited to the consideration of the following criteria:

- (a) Whether the character of the territory is urban or rural;
- (b) The ability of any existing city, county or district to provide needed services;
- (c) Whether the territory and any existing city are interdependent or part of one (1) community;
- (d) The need for city services in the territory;
- (e) The development scheme of applicable land-use plans;
- (f) The area and topography of the territory; and
- (g) The effect of the proposed incorporation on the population growth and assessed valuation of the real property in the territory.

(3) Defense may be made to the petition by any inhabitant of the proposed city, and if defense is made, the court shall hear and determine the same, and render a judgment establishing or refusing to establish a city, as may seem proper.

(4) If the court renders judgment granting the petition, the order shall set out the name of the city, a metes and bounds description of its boundaries, the population contained therein, **the form of government under which the city shall operate,** and the class to which the city shall be assigned by reason of its **form of government as set out in Section 1 of this Act**~~population~~. The order shall appoint the officers appropriate to the class of the new city, who shall hold their respective offices until the next regular election at which city officers are elected, at which time officers shall be elected by the residents of the new city.

(5) Whenever any city shall be established in the manner above provided, the court shall in the judgment direct the clerk of the court wherein such judgment is entered to, not later than ten (10) days thereafter, certify a copy thereof to the Secretary of State, whose duty it shall be to properly index and file the same as a permanent record in his office.

Section 5. KRS 81.500 is amended to read as follows:

KRS 81.500 Transfer of incorporated areas between cities of the ~~second through sixth classes~~
home rule class.

- (1) When two (2) cities of the **home rule**~~[second through the sixth]~~ class have a common boundary and it is determined that a specified area within one (1) city can be better served by the adjoining city, the specified incorporated area may be transferred to the adjoining city upon enactment of identical ordinances by each city legislative body and the submission of a petition in support of the transfer signed by voters in the area to be transferred.
- (2) The ordinances declaring the transfer of property between two (2) cities shall include, but not be limited to, the following:
 - (a) A definition of the area to be transferred;
 - (b) A statement of the financial considerations between the two (2) cities regarding the area and the terms of any financial agreements;
 - (c) The resolution of any taxes or revenues from the area; and
 - (d) A statement of the land use or zoning regulations which would be applicable to the area being transferred if planning and zoning is in effect pursuant to KRS Chapter 100 in either city.
- (3) Prior to the effective date of the transfer of the property, a petition in support of the transfer, containing a number of signatures of residents in the area to be transferred which is not less than fifty-one percent (51%) of the number of registered voters in the area to be transferred, shall be submitted to the county clerk of the county from which the property is being transferred. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition. No petition shall be required to be submitted when the property proposed for transfer contains no residents and the property owners consent in writing to the transfer.
- (4) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.
- (5) The authority for the transfer of incorporated property between cities shall be exclusive of the provisions of KRS 81A.440.
- (6) In addition to other public notice requirements, cities involved in the transfer of incorporated areas between cities shall comply with the provisions of KRS 81A.470 and 81A.475.
- (7) The incorporated area being transferred shall assume the local option status of the city to which it is being transferred.

Section 6. KRS 81A.530 is amended to read as follows:

KRS 81A.530 Authorization for, procedures for, and effects of annexation of a city of the sixth class **with population of less than 1,000** by an adjoining city of the third, fourth or fifth class **with a population of 1,000 or more.**

- (1) When ~~any~~^a city **with a population equal to or greater than one thousand (1,000)**~~[of the third, fourth, or fifth class]~~ and a city **with a population of less than one thousand (1,000)**~~[of the sixth class]~~ have a common boundary, and it is determined by the legislative body of the city **with a population of less than one thousand (1,000)**~~[of the sixth class]~~ and of the adjoining city **with a population equal to or greater than one thousand (1,000)**~~[of the third, fourth, or fifth class]~~ that the entire area of the city **with a population of less than one thousand (1,000)**~~[of the sixth class]~~ can be better served by the adjoining city, the entire area of the city **with a population of less than one thousand (1,000)**~~[of the sixth class]~~ may be annexed to the adjoining city and the city **once annexed shall be**~~[of the sixth class]~~ dissolved after the enactment of identical ordinances by each legislative body according to the provisions of this section.
- (2) The ordinances declaring the annexation~~[of the city of the sixth class by the adjoining city]~~

shall include, but not be limited to, the following:

- (a) A statement of the financial consideration, if any, between the two (2) cities regarding the area of the city being annexed~~[of the sixth class]~~ and the terms of any financial arrangements;
 - (b) The resolution of any taxes or revenues from the area of the city being annexed~~[of the sixth class]~~;
 - (c) A statement of the land use or the zoning regulations that would be applicable to the area of the city being annexed~~[of the sixth class]~~ if planning and zoning is in effect pursuant to KRS Chapter 100 in either city; and
 - (d) The date that the annexation of the city being annexed~~[of the sixth class]~~ by the adjoining city would be effective, which shall not be more than one (1) year after the date on which the last of the identical ordinances is adopted.
- (3) In order for the annexation to be completed, either of the following procedures shall be followed and concluded:
- (a) Prior to the effective date of the annexation of the area of the city being annexed~~[of the sixth class]~~ into the adjoining city, a petition in support of the annexation, containing a number of signatures of residents in the area of the city being annexed~~[of the sixth class]~~ that is not less than fifty-one percent (51%) of the number of registered voters in the area of that~~[the]~~ city~~[of the sixth class]~~, shall be submitted to the county clerk of the county in which the city being annexed~~[of the sixth class]~~ is located. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition; or
 - (b) An election shall be held to determine the desire of the voters in the city being annexed~~[of the sixth class]~~. An election shall be held at a regular election. The qualifications of voters and all other matters in regard to the election shall be governed by the general election laws. The question shall be submitted in substantially the following form: "Are you in favor of annexing the city of _____ into the city of _____ and dissolving the city of _____? Yes _____ No _____".
- (4) If the requisite number of signatures is verified by the county clerk as provided in subsection (3)(a) of this section, or if a majority of the legal votes cast at the election in the city~~[of the sixth class]~~ proposing to be annexed favors the annexation, the annexation shall proceed and become effective, and the city being annexed~~[of the sixth class]~~ shall be dissolved at the date provided in the identical ordinances adopted by the legislative bodies of both cities~~[the city of the sixth class and of the adjoining city]~~ upon the enactment by the legislative body of the adjoining city of an ordinance accepting the annexation of the city being annexed~~[of the sixth class]~~.
- (5) All assets of the city being annexed~~[of the sixth class]~~ existing on the date of annexation shall become the property of the annexing city. Any indebtedness for which the city being annexed~~[of the sixth class]~~ is liable on the date of annexation shall be assumed by the annexing city, so that after annexation the burden of taxation shall be uniform throughout the area of the two (2) cities.
- (6) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.
- (7) The authority for the annexation of the city being annexed~~[of the sixth class]~~ shall be exclusive of the provisions of KRS 81A.440.
- (8) In addition to other public notice requirements, the annexing city shall comply with the provisions of KRS 81A.470, but shall not be required to comply with the provisions of KRS 81A.475. The city clerk of the city being annexed~~[of the sixth class]~~ shall, within sixty (60) days after the effective date of the dissolution of that~~[the]~~ city~~[of the sixth class]~~, give written notice of the dissolution and the date of the dissolution to the Secretary of State who shall properly index and file the notice and date as a permanent record in the secretary's office.
- (9) The area of the city~~[of the sixth class]~~ being annexed shall assume the local option status of the city by which it is being annexed.

(10) For the purposes of this section, the city population shall be determined by using the populations contained in the most recent federal decennial census.

Section 7. KRS 83A.160 is amended to read as follows:

(1) Any city may become organized and governed under the mayor-council plan, the commission plan or the city manager plan only by popular vote in accordance with KRS 83A.120.

(2) If a majority of the votes cast are in favor of changing the organization and government of the city, the corporate entity of the city shall remain the same as it was before the change. All laws applicable to and governing cities and not inconsistent with the newly adopted plan shall continue to apply to and govern each city that so changes its plan. All city ordinances, resolutions and orders in force in any such city and not inconsistent with the newly adopted plan shall continue in force until amended or repealed in the manner provided in the new plan.

(3) Upon the expiration of the terms of the existing legislative body members, or if terms are staggered, when the terms of a sufficient number of members have expired to achieve a correct number of members remaining, or upon election of a sufficient number of additional members at the next regular election to achieve a correct number of members, the city shall be organized and governed under the newly adopted plan as provided in this chapter and shall take action necessary to be in compliance with this chapter. In no event shall a city not be in compliance two (2) years after the adoption of the new plan by the voters.

(4) Failure on the part of any ministerial officer to perform the duties required of him by this section shall not prevent the change of the plan of organization and government of the city.

(5) No city which changes the plan under which it is organized and governed under this section shall again change the plan sooner than five (5) years from the effective date of the last change.

(6) Any city with the largest population located in a county with a population equal to or greater than two hundred fifty thousand (250,000) based upon the most recent federal decennial census may elect to become organized and governed under the mayor-alderman plan of government provided in KRS 83.410 to 83.660 by popular vote in accordance with KRS 83A.120. The process for the adoption of the mayor-alderman plan of government shall be governed by subsections (2) to (5) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

KRS 67A.035 Classification of cities of no impact on urban-county government

Any comprehensive system of classification of cities enacted pursuant to the authority granted in Kentucky Constitution Section 156a shall not in and of itself be construed to impact the constitutional and statutory rights, powers, privileges, immunities, and responsibilities provided to urban-county governments pursuant to KRS 67A.060.

SECTION 913. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

KRS 83A.022 Powers and duties of city's established population criteria not lost because of subsequent census population change or court judgment.

Once a city meets the population criteria established in Sections 12, 36, 96, 151, 158, 176, 188, 191, 192, 194, 196, 284, 288, 291, 293, 294, 296, 298, 300, 301, and 302 of this Act under the most recent federal decennial census and has exercised the powers and duties pursuant to the section, the city shall not thereafter lose the ability to exercise the powers and duties provided in those sections because of an increase or decrease in population in a subsequent

federal decennial census, or because of a judgment of a court pursuant to a petition to certify a city's population as different than the federal decennial census made under Section 2 of this Act. The city shall be permitted to continue to exercise the powers and duties under the applicable section as if it still meets the population requirements provided by the section. However, if there is a conflict between a power or privilege established under a lower population limit and a higher population limit, then the city shall follow the provisions required by the higher population limit.

* * * * *

Section 19. KRS 83A.180 is amended to read as follows:

In cities of the *home rule*~~[second through sixth]~~ class, the official oath of any city officer, whether elected or appointed, may be administered by the mayor of the city for which the officer serves, except that a mayor's official oath shall be administered by such person as otherwise provided by law.

* * * * *

Section 21. KRS 15.705 is amended to read as follows:

(1) For the purpose of administration of the unified prosecutorial system, there is hereby created the Prosecutors Advisory Council, hereafter referred to as the council.

(2) The council shall consist of nine (9) members who shall be residents of Kentucky and shall include the Attorney General; three (3) Commonwealth's attorneys, one (1) from counties containing a *consolidated local government, a city with a population of twenty thousand (20,000) or more based on the most recent federal decennial census,*~~[first or second class city]~~ or an urban-county government, one (1) from counties containing a ~~[third class]~~ city *with a population equal to or greater than eight thousand (8,000) but less than twenty thousand (20,000) based on the most recent federal decennial census,* and one (1) from the other counties, each of whom shall be appointed by the Governor from a list of three (3) names for each Commonwealth's attorney position submitted by the Commonwealth's Attorneys Association; and three (3) county attorneys, one (1) from counties containing a *consolidated local government, a city with a population equal to or greater than twenty thousand (20,000) based on the most recent federal decennial census,*~~[first or second class city]~~ or an urban-county government, one (1) from counties containing a city *with a population equal to or greater than eight thousand (8,000) but less than twenty thousand (20,000) based on the most recent federal decennial census*~~[of the third class]~~, and one (1) from the other counties, each of whom shall be appointed by the Governor from a list of three (3) names for each county attorney position submitted by the County Attorneys Association and two (2) nonattorney citizen members. The Attorney General shall serve during his term of office and the other members shall serve at the pleasure of the Governor.

(3) The Attorney General shall be the chairman of the council. Five (5) members shall constitute a quorum for the conduct of business. The council shall promulgate annually a schedule of meetings. Special meetings may be called by the chairman or five (5) members of the council. A minimum of ten (10) days' notice must be given prior to the call of a special meeting. Such a notice may be waived by a majority of the council.

(4) The council shall be responsible for, but not limited to, the preparation of the budget of the unified prosecutorial system of the Commonwealth of Kentucky and the continuing legal education and program development of the unified prosecutorial system of Kentucky.

(5) Each nonattorney citizen member of the council shall receive twenty-five dollars (\$25) per day for attending each meeting. All council members shall be reimbursed for actual expenses incurred in the performance of their duties.

Section 22. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a **consolidated local government, a city with a population equal to or greater than twenty-five thousand (25,000) based on the most recent federal decennial census,**~~[of the first or second class]~~ or an urban-county government, or a city **with a population equal to or greater than eight thousand (8,000) but less than twenty thousand (20,000) based on the most recent federal decennial census**~~[of the third class]~~ and a population of sixty-eight thousand (68,000) or more, or which has a full-time Commonwealth's attorney, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars (\$26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars (\$14,300) per annum.

(6) Each full-time Commonwealth's attorney of the state shall be paid each month the sum of one thousand dollars (\$1,000) and each part-time Commonwealth's attorney shall be paid each month the sum of five hundred dollars (\$500), which sums are declared to be the equivalent of the minimum sums that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars (\$12,000) per annum. The Department for Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Department for Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department for Local Government.

* * * * *

Section 2614. KRS 61.080 is amended to read as follows:

(1) No person shall, at the same time, be a state officer, a deputy state officer, or a member of the General Assembly, and an officer of any county, city, consolidated local government, or other

municipality, or an employee thereof.

(2) The offices of justice of the peace, county judge/executive, surveyor, sheriff, deputy sheriff, coroner, constable, jailer, and clerk or deputy clerk of a court, shall be incompatible, the one (1) with any of the others. The office of county judge/executive and county school superintendent are incompatible.

(3) No person shall, at the same time, fill a county office and a municipal office. Notwithstanding the fact that consolidated local governments have both municipal and county powers, persons who hold the office of mayor or legislative council member of a consolidated local government shall not thereby be deemed to hold both a county office and a municipal office. Officers of consolidated local governments shall not, at the same time, fill any other county or municipal office.

(4) No person shall, at the same time, fill two (2) municipal offices, either in the same or different municipalities.

(5) The following offices shall be incompatible with any other public office:

- (a) Member of the Public Service Commission of Kentucky;
- (b) Member of the Workers' Compensation Board;
- (c) Commissioner of the fiscal court in counties containing a city of the first class;
- (d) County indexer;
- (e) Member of the legislative body of cities of the first class;
- (f) Mayor and member of the legislative council of a consolidated local government; and
- (g) Mayor and member of the legislative body in cities of the home rule ~~second~~ class; ~~and~~
- ~~(h) Mayor and member of council in cities of the fourth class.~~

(6) No office in the Kentucky active militia shall be incompatible with any civil office in the Commonwealth, either state, county, district, or city.

(7) Service as a volunteer firefighter in a volunteer fire department district or fire protection district formed pursuant to KRS Chapter 65, 75, 95, or 273 shall not be incompatible with any civil office in the Commonwealth, whether state, county, district, or city.

* * * * *

Section 31. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of ten (10) members, appointed by the Governor as follows: two (2) members shall be employed by or representative of the interest of CMRS providers, of which, one (1) shall be a representative of a Tier III CMRS provider; one (1) member shall be a mayor of a city ~~of the first or second class~~ or urban-county government or his or her designee containing a public safety answering point; one (1) member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; one (1) member shall be a director of a certified public safety answering point operated by a local governmental entity or a consolidated group of local governmental entities appointed from lists of candidates submitted to the Governor by the Kentucky Firefighters Association, the State Association of Chiefs of Police, and the Kentucky Ambulance Providers Association; two (2) members shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials; and one (1) member shall be a director of a certified public safety answering point operated by a local government entity or a consolidated group of local governmental entities. The commissioner of the Department of Kentucky State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be

members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years. Any member missing three (3) consecutive meetings may be removed by a majority vote of the remaining voting members.

(3) In addition to the administrator, the Kentucky Office of Homeland Security shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the Kentucky Office of Homeland Security for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

* * * * *

Section 3515. KRS 67.323 is amended to read as follows:

(1) Any county *that has not established a county police merit system, as provided by KRS 78.400 to 78.460 and 78.990* may, by order of its fiscal court, duly made and entered of record, create a county fire department merit system, and for that purpose establish a county fire department merit board, whose duties it shall be to classify and examine applicants seeking employment as firefighters or employees of the fire department of the said county, and, in addition, to promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, fine, suspension and other disciplinary action within the said county fire department of all personnel of the county fire department or departments affected as provided in this section and KRS 67.325 and 78.425, and, in addition thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected as provided in this section, KRS 67.325 and 78.425.

(2) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

(3) KRS 78.410 to 78.460 and 78.990 shall be followed in the establishing of a county fire department merit system as provided in this section. All terms referring to the county police force, by context or definition, shall be taken to mean county fire department. Other terms mean:

(a) "Board" means the county fire department merit board created by subsection (1).

(b) "Chief" means the chief of the county fire department affected by this section, KRS 67.325 and 78.425.

(c) "Assistant chief" means the next in command to the chief of the county fire department affected by this section, KRS 67.325 and 78.425.

(d) "Secretary" means the executive secretary and examiner employed by the county fire department merit board created by this section, KRS 67.325 and 78.425.

(e) "Officer" means any member of the county fire department affected by this section, KRS 67.325 and 78.425.

(f) "Employee" means all other employees of the county fire department affected by this section, KRS 67.325 and 78.425.

~~[(4) This section applies to counties containing a city of the second class which have not established county police merit systems as provided by KRS 78.400 to 78.460 and 78.990.]~~

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Section 42. KRS 69.010 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the Commonwealth's attorney shall, except in Franklin County, attend to all civil cases and proceedings in which the Commonwealth is interested in the Circuit Courts of his judicial circuit. In civil cases the Governor may employ counsel to assist the Commonwealth's attorney. The fees of the counsel employed by the Governor shall be paid out of the State Treasury upon a voucher signed by the Governor.

(2) In each judicial circuit containing a city of the first~~[or second]~~ class,~~[or]~~ an urban-county government, *or any city with a population of twenty-five thousand (25,000) or more,* the Commonwealth's attorney shall not be required to represent the Commonwealth in any civil proceedings.

* * * * *

Section 44. KRS 70.320 is amended to read as follows:

KRS 70.320 Deputy constables *in authorized counties* ~~containing a city of the first or second class or a consolidated local government.~~

(1) *As used in this section:*

(a) "Authorized county" means a county containing either an eligible city or a consolidated local government; and

(b) "Eligible city" means a city on the registry maintained by the Department for Local Government under subsection (5) of this section.

(2) The appointment of deputy constables shall be *allowed only in* authorized~~[only in]~~ counties~~[containing a first or second class city or a consolidated local government]~~. In *authorized* counties~~[containing a city of the first[or second] class or a consolidated local government]~~, each constable may appoint one (1) or more deputies with the consent of the county judge/executive or the mayor, in a consolidated local government, as the case may be. The constable and his or her surety are liable on his or her bond for all the acts and omissions of his or her deputies.

(3)(2) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county judge/executive or the mayor in a consolidated local government, as the case may be, entered after filing of a written direction by the constable.

(4)(3) Each deputy constable in counties containing a consolidated local government or city of the first class shall be compensated for his or her services by salary fixed by the consolidated local government or fiscal court, and paid out of the levy of the consolidated local government or county.

(5) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of January 1, 2014, were classified as cities of the first or second classes. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

* * * * *

Section 105. KRS 95.010 is amended to read as follows:

(1) As used in KRS 95.160 to 95.290 and in KRS ~~95.830~~^{95.787} to ~~95.845~~^{95.850}, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employee by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means the officers, firefighters, and clerical or maintenance employees, including the chief of the fire department.

(d) "Member" means any person in the police or fire department, other than the chief or assistant chief of the department.

(e) "Police department" means the officers, policemen, and clerical or maintenance employees, including the chief of police.

(f) "Police force" means the officers and policemen of the police department, other than the chief of police.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employee.

(h) "Salary" means any compensation received for services.

(i) "Suspension" means the separation of an employee from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(2) As used in KRS 95.440 to 95.630, the following words and terms shall have the following meaning, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employee by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means and includes all officers, firefighters, and clerical or maintenance employees of the fire department.

(d) "Police department" means and includes all officers, policemen, and clerical or maintenance employees of the police department.

(e) "Member" means any and all officers, firefighters, policemen, clerical or maintenance employees in the police or fire department, except as used in subsections (1) and (3) of KRS 95.440, and KRS 95.450, 95.460, 95.470, 95.550, 95.560, 95.565, 95.570 and 95.580; it shall not include the chief of police~~[in a city of the second class operating under the commission form of government or]~~ in an urban-county government.

(f) "Police force" means and includes all officers and policemen in the police department.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employee.

(h) "Firefighter" means a member of the fire department below the rank of officer, other than a clerical or maintenance employee.

(i) "Salary" means any compensation received for services.

(j) "Suspension" means the separation of an employee from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(k) "Pension fund" shall mean the moneys derived from the members of the police and fire departments' salary or salaries and appropriations by the legislative body, or any other means derived from whatever source by gift or otherwise to be used for the retirement of members of the police and fire departments after the prescribed number of years of service, and for the benefit of disabled

members of police and fire departments, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of any member of the police or fire department within the scope of his employment.

(3) As used in KRS 95.761 to 95.785 the following words and terms shall have the following meaning:

(a) "Regular police department." For the purpose of KRS 95.761 to 95.785, a "regular police department" is defined as one having a fixed headquarters, where police equipment is maintained and where a policeman or policemen are in constant and uninterrupted attendance to receive and answer police calls, and execute regular police patrol duties.

(b) "Regular fire department." For the purpose of KRS 95.761 to 95.785, a "regular fire department" is defined as one having a fixed headquarters where firefighting apparatus and equipment are maintained, and where firefighters are in constant and uninterrupted attendance to receive and answer fire alarms.

(c) "Legislative body." Wherever in KRS 95.761 to 95.785 the term "body" or "legislative body" is employed, it shall be construed to mean the legislative branch of the city government or urban-county government.

(d) "Commission." The word "commission" shall mean the board of civil service commissioners, as established under the terms of KRS 95.761 to 95.785.

(e) "Trustees." The word "trustees" shall mean the board of pension fund trustees, as established under the terms of KRS 95.761 to 95.785.

(f) "Pension fund." The term "pension fund" shall mean the moneys derived from the policeman or policemen and firefighter or firefighters salary or salaries, and appropriations by the legislative body, or any other sums derived from whatever source by gifts or otherwise to be used for the retirement of policeman or policemen and firefighter or firefighters after the prescribed number of years of service and for the benefit of disabled policeman or policemen and firefighter or firefighters, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of a policeman or firefighter within the scope of his employment, according to the terms of KRS 95.761 to 95.785.

Section 106. KRS 95.019 is amended to read as follows:

KRS 95.019 Chief of police and police force *in urban county-governments and cities* to have common law and statutory powers of constables and sheriffs.

(1) The chief of police and all members of the police force in *urban-county governments and cities*~~[of the first through fifth classes]~~ shall possess all of the common law and statutory powers of constables and sheriffs. They may exercise those powers, including the power of arrest for offenses against the state, anywhere in the county in which the *urban-county government or city* is located, but *the chief of police and members of the police force in a city* shall not be required to police any territory outside of the city limits.

(2) ~~{The chief of police and all members of the police force in cities of the sixth class shall possess all of the common law and statutory powers of constables and sheriffs. They may exercise those powers, including the power of arrest for offenses against the state, only within the corporate boundaries of the city and within the boundaries of any real property owned by the city which is located outside of its corporate boundaries.~~

(3) ~~{~~The chief of police and all members of the police force in all *urban-county governments and cities* shall be entitled to the same fees, and the same remedies for collecting them, that are allowed to sheriffs and other officers for similar services, but all fees shall be paid into the *urban-county government or city* treasury.

Section 107. KRS 95.290 is amended to read as follows:

(1) The city legislative body in cities of the first class may enact ordinances providing for a system of pensions for retired and disabled members of the police and fire divisions of the department of public safety and their dependents, may appropriate funds for the purpose of paying such pensions, may allot and pay to the policemen's pension fund or the firefighters' pension fund or either or both of them, all fines and forfeitures imposed upon members of the respective divisions, and may provide for, assess, and collect contributions from the members for the benefit of the fund.

(2) There shall be a governing body of the policemen's pension fund, and a governing body of the firefighters' pension fund. The governing bodies of the respective funds shall hold title to all assets in their respective funds, and shall have exclusive authority relating to investment of the assets of the funds, including contracting with investment advisors or managers to perform investment services as deemed necessary and prudent by the board. A majority of the governing body of each fund shall be comprised of persons receiving pension benefits from the respective pension systems, and no more than one (1) member of the city legislative body may be a member of the governing body of either the policemen's or the firefighters' pension fund. To be effective, an action of the governing body of a fund shall require only a simple majority of the votes cast at a properly convened meeting of the governing body where a quorum is present, with a quorum being a majority of the members of a governing body.

(3) Any policemen's pension fund or any firefighters' pension fund established under the provisions of this section shall be held or distributed for, and only for, any of the following purposes of the respective fund as applicable:

- (a) Paying pensions, and any bonus payments under applicable ordinances;
- (b) Making payments to the city for transfer to the County Employees Retirement System for alternate participation pursuant to KRS 78.530(3)(a) and 78.531(2);
- (c) Transferring pension assets through investment contract or other financial instrument for the purpose of amortizing unfunded service liabilities; and
- (d) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565.

Pursuant to the terms of this section, if policemen of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall be distributed to the city for use by the city for any other purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (d) of this subsection. The governing board of the fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal services, the amount such governing board deems proper.

(e) Payment from the city to the County Employees Retirement System for future pension contributions required pursuant to KRS 61.565. Pursuant to the terms of this section, if firefighters of the city of the first class elect entry into the County Employees Retirement System and thereby create excess funds over those required to provide for the purposes set forth in paragraphs (a), (b), and (c) of this subsection, these excess funds shall be distributed according to the terms of an agreement negotiated between the city and the union organization representing the firefighters. The city may use its share of the distributed excess funds for any purpose it may elect, including, but not limited to, the establishment of a reserve for payment under paragraph (e) of this subsection.

(4) (a) The governing body of each pension fund shall insure that all of the assets in the fund are distributed for the purposes in subsection (3) of this section, and only for these purposes. If in

any calendar year the assets in either fund exceed those needed for the actuarial liability for payment of pension benefits and any anticipated liabilities under subsection (3)(b) and (c) of this section, the legislative body of the city establishing the pension system shall insure by pension bonus ordinance that a portion of these excess funds be distributed in an equitable manner to all eligible pension recipients. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on July 15, 1998.

(b) The governing board of either fund may annually expend for the necessary expenses connected with the fund, including but not limited to expenses for medical, actuarial, accounting, and legal or other professional services, the amount such governing board deems proper.

(5) Any ordinance establishing a pension fund under this section shall make equitable provision for the rights of persons having an interest in assets transferred to the fund from any fund heretofore established by statute.

(6) To assure equal protection for the beneficiaries of either fund, any action taken by the city executive or legislative body in cities of the first class that affects a policemen's pension fund or a firefighters' pension fund established under this section shall, to the maximum extent permitted by law, treat each fund in a uniform manner and shall not cause any change to be made to the structure or operation of either fund, whether through legislation, litigation, compromise, settlement, or otherwise, unless any proposed change is offered to the other fund before it takes effect. Nothing in this subsection shall be construed to require any change to be made to any pension ordinance as it exists on July 15, 1998.

(7) The legislative body in a city of the first class shall issue the appropriate order, pursuant to KRS 78.530(1), directing participation for policemen in the County Employees Retirement System. All new employees who would have been granted membership in the local policemen's pension system shall be members of the County Employees Retirement System. All active members of the local policemen's pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for policemen who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local pension fund, other than assets necessary to pay benefits to the remaining active members of the local policemen's pension system and to retirees and their survivors as determined by actuarial evaluation, to assist in the payment of the annual installment cost of alternate participation. All policemen who become members of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage, and the city may, at its option, purchase accumulated sick leave for each policeman upon retirement pursuant to KRS 78.616.

(8) The legislative body in a city of the first class may issue the appropriate order, pursuant to KRS 78.530(1), directing participation for firefighters in the County Employees Retirement System. In the event that the legislative body in a city of the first class issues such an order, then all new employees who would have been granted membership in the local firefighters' pension system shall be members of the County Employees Retirement System. All active members of the local firefighters' pension system at the time of transition to the County Employees Retirement System may choose membership in the County Employees Retirement System or may retain membership in the local system. The city shall elect the alternate participation plan, pursuant to KRS 78.530(3), for firefighters who transfer to the County Employees Retirement System. Notwithstanding the provisions of KRS 78.530(3)(b), the city may, at its option, extend the payment period for the cost

of alternate participation to a maximum of twenty (20) years with the interest at the rate actuarially assumed by the board. The city shall have the right to use assets in the local firefighters' pension fund, other than assets necessary to pay benefits to the remaining active members of the local firefighters' pension system and to retirees and their survivors as determined by actuarial evaluation, to assist in the payment of the annual installment cost of alternate participation. After certification by the County Employees Retirement System of eligibility for hazardous duty coverage, each firefighter who becomes a member of the County Employees Retirement System pursuant to this section shall be granted hazardous duty coverage.

(9) Notwithstanding the provisions of KRS 61.565, which relate to the contributions required of participating employers, any city of the first class participating in the County Employees Retirement System hazardous duty pension plan which has in effect a collective bargaining agreement with a group of employees who participate in said plan, shall have the right to enter into agreement with its employees or with their respective collective bargaining representatives. This agreement may include, but is not limited to, specifications of what portion of the required employer contribution shall be borne by the participating employer and what portion shall be borne by the participating employee. This provision in no way modifies the employer's obligation to remit the contributions required by the County Employees Retirement System pursuant to KRS 61.565, whether such contributions are borne by the city or by its participating employees.

(10) With regard to the employer participation or employer contributions pursuant to KRS 61.565 as it relates to future pension contribution requirements or as it relates to payback period or interest charge for service liability cost under alternate participation, if any statute or any resolution of the appropriate state board of trustees having authority over employer participation or employer contribution grants any terms or conditions to any city of the home rule~~[second through the sixth]~~ class, or to any county, or to any urban-county government, which are more favorable in terms of participation than terms or conditions granted to any city of the first class, then said provisions for employer participation or contribution shall be available to the city of the first class, at its option and effective upon adoption by the city of the first class and notification to the County Employees Retirement System.

Section 10816. KRS 95.435 is amended to read as follows:

KRS 95.435 Custody and disposition of property taken by the police department *of city of home rule class or urban-county government.*

(1) The police department in cities of the home rule~~[second]~~ class~~], and urban-county governments~~~~[government]~~ shall take charge of property, within their jurisdiction, alleged to be or suspected of being the proceeds of crime, property taken from the person of a prisoner, lost or abandoned property taken into the custody of any member of the police force or criminal court, and property taken from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves. The officer or court having custody of such property shall as soon as practicable deliver it into the custody of the police department.

(2) All such property shall be particularly described and registered by the police department in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The police department shall advertise the property pursuant to KRS Chapter 424 for the information of the public as to the amount and disposition of the property.

(3) If any property in the custody of the police department is desired as evidence in any criminal court, such property shall be delivered to any officer who presents an order to that effect from the

court. Such property shall not be retained in the court but shall be returned to the police department.

(4) All property except firearms that remains in the custody of the police department for three (3) months, without any lawful claimant thereto, may be sold at public auction in a suitable room designated for that purpose after having been advertised pursuant to KRS Chapter 424. The proceeds of such sales shall be paid into the police and firefighters' pension fund of said city or urban-county government **if the city or urban-county government has a pension fund with active members or beneficiaries. If the city or urban-county government does not maintain a policemen's and firefighters' pension fund or no longer has active members or beneficiaries, then the proceeds shall be designated by the city or urban-county government for the exclusive use of the police department.** Firearms shall be transferred to the Department of Kentucky State Police within ninety (90) days of abandonment, confiscation, release of the weapon as evidence, or forfeiture by a court, whichever occurs later.

Section 109. KRS 95.440 is amended to read as follows:

KRS 95.440 Police and fire department members **in city of home rule class or urban-county government** – Qualifications – Examination – Tenure – Reinstatement.

(1) The legislative body ~~of~~ cities of the **home rule class**~~[second and third classes]~~ and urban-county governments ~~may~~~~shall~~ require, **in addition to the peace officer professional standards training under KRS 15.380 to 15.404,** all applicants for appointments as members of the police or fire departments to be examined as to their qualifications for office, including their knowledge of the English language and the law and rules governing the duties of the position applied for.

(2) Each member of the police or fire department in cities~~[of the second and third classes]~~ and urban-county governments shall be able to read, write and understand the English language, and have such other qualifications as may be prescribed. No person shall be appointed a member of the police or fire department unless he is a person of sobriety and integrity and is and has been an orderly, law-abiding citizen. **No person convicted of a felony is eligible for appointment.**

(3) Members of the police and fire departments in cities **required to comply with Section 112 of this Act**~~[of the second and third classes]~~ or urban-county governments qualified under this section shall hold their positions during good behavior, except that the legislative body may decrease the number of policemen or firefighters as it may deem proper.

(4) If the legislative body of a city **required to comply with Section 112 of this Act**~~[of the second or third class]~~ or urban-county government decreases the number of policemen or firefighters, the youngest members in point of service shall be the first to be released and returned to the eligible list of the department, there to advance according to the rules of the department.

(5) The legislative body in an urban-county government may by ordinance provide that any person who has successfully completed his probationary period and subsequently ceased working for the police or fire department for reasons other than dismissal may be restored to the position, rank and pay he formerly held or to an equivalent or lower position, rank or pay than that which he formerly held if he so requests in writing to the appointing authority. Such person shall be eligible for reinstatement for a period of one (1) year following his separation from the police or fire department and shall be reinstated only with the approval of the appointing authority.

Section 110. KRS 95.442 is amended to read as follows:

KRS 95.442 Authorization for civil service commission **in city with population of 8,000 or more** – Rights of employee accepting management position.

Any city **with a population equal to or greater than eight thousand (8,000) based upon the**

most recent federal decennial census,~~[of the second or third class]~~ may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission. Any classified employee in the police or fire department who accepts an appointment and qualifies as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his or her appointment.

Section 111. KRS 95.445 is amended to read as follows:

KRS 95.455 Auxiliary police in city of home rule class or urban-county government – Exception.

(1) Except as provided in subsection (2) of this section, the legislative body of a city of the home rule~~[second, third, fourth, fifth, or sixth]~~ class, or urban-county government,~~[except a city of the fifth or sixth class in a county containing a first-class city,]~~ may by ordinance provide for the establishment or abolishment of an auxiliary police force to perform special duties within the city on terms it deems proper. The ordinance shall prescribe the number of officers and men of such force and the manner of their appointment, and rules and regulations governing the powers and duties of members of such force.

(2) No city containing a population of less than three thousand (3,000) based upon the most recent federal decennial census that is located within a county that contains a consolidated local government shall establish or otherwise provide for an auxiliary police force.

Section 11217. KRS 95.450 is amended to read as follows:

KRS 95.450 Discipline of members of police and fire departments in urban-county governments and cities on DLG's registry of cities that belong to the second and third classes on January 1, 2014.

(1) The provisions of this section shall only apply to members of police and fire departments in urban-county governments and those cities that are included in the Department for Local Government registry created pursuant to subsection (9) of this section

(2) Except as provided in subsection ~~(6)~~⁽⁵⁾ of this section no member of the police or fire department in cities listed on the registry pursuant to subsection (9) of this section~~[of the second and third classes]~~ or an urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the legislative body, and only after charges are preferred and a hearing conducted as provided in this section.

~~(3)~~⁽²⁾ Any person may prefer charges against a member of the police or fire department by filing them with the clerk of the legislative body who shall immediately communicate the same to the legislative body. The mayor shall, whenever probable cause appears, prefer charges against any member whom he believes guilty of conduct justifying his dismissal or punishment. The charges shall be written and shall set out clearly the charges made. The person preferring the charges may withdraw them at any time prior to the conclusion of the hearing. The charges may thereupon be dismissed.

~~(4)~~⁽³⁾ Upon the hearing all charges shall be considered traversed and put in issue, and the trial shall be confined to matters related to the issues presented. Within three (3) days after the charges

have been filed with the legislative body, that body shall proceed to hear the charges. At least two (2) days before the hearing the member accused shall be served with a copy of the charges and a statement of the day, place and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges and demand trial within three (3) days after the charges are filed with the clerk.

~~(5)(4)~~ The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by the clerk of that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The member accused may have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

~~(6)(5)~~ When the appointing authority or the head of the department has probable cause to believe a member of the police or fire department has been guilty of conduct justifying dismissal or punishment, he or it may suspend the member from duty or from both pay and duty, pending trial, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuances granted without the consent of the member accused.

~~(7)(6)~~ The legislative body shall fix the punishment of a member of the police or fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two (2) or more of those punishments, or by dismissal from the service.

(8) A member of a police or fire department found guilty pursuant to the provisions of this section shall have the right to appeal to the Circuit Court under the provisions of Section 113 of this Act.

(9) On or before January 1, 2015, the Department for Local Government shall create a registry of cities that shall be required to comply with the provisions of this section. The Department for Local Government shall include each of those cities on the registry that were classified as cities of the second or third class as of January 1, 2014. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

Section 113. KRS 95.460 is amended to read as follows:

(1) Any member of the police or fire department ~~in cities of the second and third classes or urban-county governments~~ found guilty by the legislative body of any charge, as provided by KRS 95.450, may appeal to the Circuit Court of the county in which the city or urban-county government is located, but the enforcement of the judgment of the body shall not be suspended pending appeal. The notice of the appeal shall be filed not later than thirty (30) days after the date the legislative body makes its determination on the charge.

(2) Upon request of the accused, the clerk of the legislative body shall file a certified copy of the charges and the judgment of that body in the Circuit Court. Upon the transcript being filed, the case shall be docketed in the Circuit Court and tried as an original action.

(3) If the clerk fails to certify the transcript to the Circuit Court within seven (7) days after the request is made, the party aggrieved may file an affidavit in the Circuit Court setting out as fully as

possible the charges made, the time of the hearing, and the judgment of the legislative body, together with a statement that demand for transcript was made upon the clerk more than five (5) days before the filing of the affidavit. Upon the filing of the affidavit in the Circuit Court, the case shall be docketed, and the Circuit Court may compel the filing of the transcript by the clerk by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.

(4) An appeal will lie from the judgment of the Circuit Court to the Court of Appeals as in other cases.

Section 114. KRS 95.470 is amended to read as follows:

KRS 95.470 Prohibition of political activity *for police and fire departments in cities of home rule class and urban-county governments.*

(1) No person shall be appointed a member of the police or fire department in cities of the home rule~~[second and third classes]~~ or urban-county governments on account of any political service, contribution, sentiment or affiliation. No member shall be dismissed, suspended or reduced in grade or pay for any political opinion.

(2) The appointment and continuance in office of members of the police or fire department shall depend solely upon their ability and willingness to enforce the law and comply with the rules of the department, and shall not be a reward for political activity or contribution to campaign funds.

(3) No member of either department shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No member of either department shall be active in politics or work for the election of candidates while on duty.

Section 115. KRS 95.480 is amended to read as follows:

(1) The chief of police in cities ~~[of the second class]~~ or a policeman acting under his authority shall, *if required by the city,* attend all sessions of the legislative body, execute their orders, and preserve order at their sessions.

(2) The chief of police may receive the same fees, for the use of the city or urban-county government, that sheriffs are entitled to receive for like services, and have the same power to collect them.

(3) The chief of police, policemen deputized by him, and others to whom the process of a court is directed and comes for execution shall execute and return the process within the time prescribed by law for sheriffs to execute and return similar process, and on their failure they and their sureties shall be liable to the same penalties as sheriffs. They shall be subject to similar penalties for not paying over moneys collected on execution, making illegal charges, false returns and like illegal acts.

(4) The District Court may hear and determine motions against them and their sureties for failure to pay over moneys collected, as the Circuit Court has jurisdiction to hear and determine motions against defaulting sheriffs, or may proceed by fines and imprisonment to enforce the execution and return of process.

Section 116. KRS 95.490 is amended to read as follows:

KRS 95.490 Oath and bond of members of police force – Cities of ~~second~~ *home rule* class or urban-county governments.

(1) Each member of the police force in cities of the home rule~~[second]~~ class or *in an* urban-county government, before entering upon the discharge of his duties, shall take an oath before the mayor to faithfully discharge the duties of his *or her* office. The oath shall be subscribed by the

person taking it, and filed in the office of the city ~~clerk~~^{auditor}, or in urban-county governments, the office most closely resembling such office.

(2) The chief of police and each other member of the police force shall give such bond to the city or urban-county government, and with such surety as may be required by ordinance, conditioned that they will faithfully perform the duties of their office and pay over to the persons entitled thereto all moneys that may come into their hands. A lien shall exist on the lands of the chief of police or policemen deputized by him, and their sureties, from the time of executing bond, for all sums of money that come into their hands.

Section 117. KRS 95.495 is amended to read as follows:

KRS 95.495 Hours of work and annual leave for members of police department in ~~cities of second class or urban-county governments~~ and cities on DLG's registry of cities that belonged to the second and third classes on January 1, 2014.

(1) In~~all~~ cities listed on the registry pursuant to subsection (3) of this section~~of the second class~~ or urban-county governments, except those in which, by ordinance, the patrolmen are employed or paid by the day, the members of the police department shall not be required to work more than eight (8) hours per day, for five (5) days each week or ten (10) hours per day, for four (4) days each week, except in the event of an emergency. Each member of the police department shall have an annual leave of fifteen (15) working days with full pay. Nothing in this section shall prohibit a member of the police department from voluntarily agreeing to work a different work schedule provided that the officer is paid overtime for any work performed in excess of forty (40) hours per week.

(2) The salary of the members of the police department shall not be reduced by reason of the enactment of this section.

(3) On or before January 1, 2015, the Department for Local Government shall create a registry of cities that shall comply with the provisions of this section. The Department for Local Government shall include each of those cities on the registry that were classified as cities of the second or third class on January 1, 2014. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

* * * * *

SECTION 120 A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

KRS 95.518 Applicability of KRS 95.520 to 95.620 and KRS 95.621 to 95.629.

The provisions of KRS 95.520 to 95.620 and KRS 95.621 to 95.629 shall only apply to those cities that were previously classified as cities of the third class on or before August 1, 1988, under the city classification system that was in effect on or before August 1, 1988, and have established a policemen's and firefighters' pension program specifically under the provisions of KRS 95.520 to 95.620 and KRS 95.621 to 95.629 on or before August 1, 1988, or to any other city that established a policemen's and firefighters' pension program specifically under the provisions of KRS 95.520 to 95.620 and KRS 95.621 to 95.629 on or before August 1, 1988.

Section 121. KRS 95.520 is amended to read as follows:

(1) In cities meeting the criteria set out in Section 120 of this Act, there shall be~~in cities of~~

~~the third class~~ a policemen's and firefighters' pension fund, and a board of trustees for that fund unless the policemen and firefighters are included in the membership of the County Employees Retirement System.

(2) The board of trustees is the trustee of the pension fund, and has exclusive control and management of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) (a) After August 1, 1988, no new locally administered pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988;

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System;

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section;

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System, and not covered by Social Security for their employment with the city, are employed in hazardous positions. If the police and firefighters are covered by Social Security for their employment with the city, the city may certify that they are employed in hazardous positions; and

(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.520 to 95.620 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4).

Section 122. KRS 95.530 is amended to read as follows:

KRS 95.530 Board of trustees *of pension fund established under KRS 95.520* – Members – Officers.

(1) In cities *with a pension fund established under Section 121 of this Act*~~of the third class~~ where there are fewer than six (6) active members of the pension fund, the board of trustees of the policemen's and firefighter's pension fund is composed of the mayor, city treasurer, and one (1) retired member each from the police and fire departments. The retired members from the police and fire departments shall be elected by the respective retired members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their respective successors are elected and qualified. The board shall select from their number a president and a secretary.

(2) If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of the fund from each department elected by the active members of the fund from the respective departments and who shall serve for one (1) year and until their respective successors are elected and qualified. If all of the six (6) or more active members or all of the retired members are from one (1) department, then both of the active member board members or both of the retired board members, as the case may be, shall be elected from that department.

(3) The board of trustees' membership shall be restructured according to the provisions of this

section at the time of the next scheduled election of board members after July 15, 1990.

Section 123. KRS 95.540 is amended to read as follows:

- (1) The board of trustees of the pension fund established under Section 121 of this Act~~in cities of the third class~~ may make all necessary rules for its government in the discharge of its duties, and shall hear and decide all applications for benefits or pensions. Its decision on these applications shall be conclusive, and not subject to revision or reversal, except by the board. A record shall be kept of the meetings and proceedings of the board.
- (2) The board of trustees of the pension fund shall make an annual report on the condition of the pension fund to the city legislative body, at that body's last meeting in August.

Section 124. KRS 95.550 is amended to read as follows:

KRS 95.550 ~~Pensions~~ **Benefits** for disability or death ~~in cities of the third class~~ **from pension fund established under KRS 95.520** – Beneficiaries -- Amounts.

- (1) The pensions or benefits paid for disability or death from the policemen's and firefighters' pension fund established under Section 121 of this Act~~in cities of the third class~~ shall be as follows:
 - (a) If any member of the police or fire department becomes temporarily totally disabled, physically or mentally, while in the performance of duty and by reason of service in the department, the board of trustees of the pension fund shall order paid to him monthly, during his disability but not longer than one (1) year, a sum of not more than sixty dollars (\$60) per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period. Provided, however, that the provisions of this paragraph shall not apply unless the disabled firefighter or policeman has served from one (1) day to ten (10) years consecutively in his department, such period of service to be fixed by the board of trustees.
 - (b) If any member of the police or fire department becomes permanently disabled, physically or mentally, while in the performance of duty and by reason of service in the department, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty percent (50%) of his monthly salary at the time of his retirement. Provided, however, that the provisions of this paragraph shall not apply unless the disabled firefighter or policeman has served from one (1) day to ten (10) years consecutively in his department, such period of service to be fixed by the board.
 - (c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after fifteen (15) consecutive years of service in the department, and leaves a widow, widower, or a child under eighteen (18) years of age, the board of trustees shall order a pension paid to the widow, widower, or child. There shall be paid monthly to the widow or widower, while unmarried, a pension of not less than thirty dollars (\$30), or not more than fifty percent (50%) of the deceased's monthly salary at the time of retirement or death and for each child until it reaches the age of eighteen (18) years, not less than six dollars (\$6) or not more than ten percent (10%) of the deceased's monthly salary, such amount to be determined by the board of trustees. The board may provide a minimum benefit of no more than four hundred dollars (\$400) per month, initially, to the surviving spouse if the benefit can be supported on an actuarially-sound basis by the pension fund. The board may increase the minimum benefit pursuant to the provisions of KRS 95.560. If the deceased member was unmarried and childless, a pension shall be paid to his dependent father and mother of not less than thirty dollars (\$30) or not more than

twenty percent (20%) of the deceased's monthly salary. If one (1) parent is dead, the other shall receive the entire amount, and if both are living, each shall receive one-half (1/2) the amount, such amount to be determined by the board of trustees.

(2) No person shall receive a pension from the policemen's and firefighters' pension fund except as provided in this section.

Section 125. KRS 95.560 is amended to read as follows:

KRS 95.560 Pensions on retirement *in cities with pension fund established under KRS 95.520* – Increase – Health insurance for retirees.

(1) In cities *that have a policemen's and firefighters' pension fund established under Section 121 of this Act*~~[of the third class]~~, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement; and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement.

(2) In order to adjust retirement benefits to the purchasing power of the dollar, the board shall if it is actuarially feasible annually order an increase in benefits paid pursuant to this section and KRS 95.550. The board shall if it is actuarially feasible order an increase in benefits by an amount equal to the increase in the cost-of-living increase for a recipient of Social Security, but the annual increase shall not exceed five percent (5%).

(3) The board may provide a group hospital and medical insurance plan for retirees and their spouses who have not reached the age to qualify for Federal Medicare, if providing insurance will not jeopardize the capacity of the board to pay retirement and survivor benefits. No insurance shall be provided for persons who are entitled to Medicare benefits or are receiving Medicare benefits.

Section 126. KRS 95.565 is amended to read as follows:

KRS 95.565 Credit under pension system *established under KRS 95.520* for time spent in Armed Forces.

Any member of the police or fire department of a city *with a pension fund established under Section 121 of this Act*~~[of the third class]~~, who, while a member of the police or fire department, entered the Armed Forces of the United States, and who was honorably discharged therefrom, shall upon his return to that police or fire department be entitled to the same pension or benefits provided by KRS 95.560, and his beneficiaries shall be entitled to the same pension under KRS 95.550, as if the member had remained on active duty with that police or fire department, and his time served in the Armed Forces shall be added to his previous service and shall be construed for purposes of eligibility for pensions or benefits, either for himself or his beneficiaries, as a part and continuation of his consecutive years of service with that police or fire department. This section shall apply only to those members who served in World War II, who apply for reinstatement within ninety (90) days after the date on which the member first received or could have received an honorable discharge, and shall not apply to those members reenlisting in the Armed Forces of the United States.

Section 127. KRS 95.570 is amended to read as follows:

When an active or retired member of the police or fire department~~[in cities of the third class]~~ dies under the conditions set out in paragraph (c) of subsection (1) of KRS 95.550, the board of trustees of the pension fund may pay from the fund to the widow, widower or family a sum of not more than two hundred dollars (\$200) for funeral expenses.

Section 128. KRS 95.580 is amended to read as follows:

KRS 95.580 Sources of pension fund ~~in cities of the third class~~ ***established under KRS 95.520.***

(1) The policemen's and firefighters' pension fund ***established under Section 121 of this Act***~~in cities of the third class~~ shall consist of:

(a) Revenues of the city authorized to be paid by the city legislative body, which shall be not less than the amount contributed by the members of the police and fire departments.

(b) All rewards, fees, gifts and emoluments paid or given on account of extraordinary service of any member of the police or fire department.

(c) Assessments, which the board of trustees of the pension fund may make, upon each member of the police and fire departments, of not less than one percent (1%) nor more than four percent (4%) of his salary, to be withheld from the monthly salary and paid by the city treasurer into the pension fund.

(2) Both the principal and interest of the pension fund shall be applicable to the payment of pensions in cities ***with a pension fund established under Section 121 of this Act***~~of the third class~~.

Section 129. KRS 95.590 is amended to read as follows:

KRS 95.590 ***Custody of*** pension fund ~~custody~~ ***established under KRS 95.520.***

(1) The city treasurer, in cities ***with a pension fund established under Section 121 of this Act***~~of the third class~~, is ex officio treasurer of the board of trustees of the pension fund, and custodian of the pension funds.

(2) The treasurer, as custodian, shall securely keep the fund, subject to the control of the board, and shall keep his books and accounts concerning the fund in the manner prescribed by the board. The books and accounts are always subject to the inspection of the board or any board member.

(3) The treasurer shall, within ten (10) days after his election, execute a bond to the city with good surety, in the penal sum the board of trustees directs, to be approved by the board, conditioned for the faithful performance of the duties of his office, and that he will safely keep and well and truthfully account for all money and properties that come into his hands as treasurer of the pension fund, and that upon the expiration of his term of office he will deliver to his successor all securities, unexpended moneys and other properties that come into his hands as treasurer of the fund. The bond shall be filed in the office of the treasurer, and suit may be filed thereon in the name of the city for the use of the board or any person injured by its breach.

Section 130. KRS 95.600 is amended to read as follows:

KRS 95.600 ***Investment of*** pension fund ~~investment~~ ***established under KRS 95.520.***

The board of trustees ***established under Section 121 of this Act***~~in cities of the third class~~ may draw the pension fund from the treasury and shall invest it, in whole or in part, in the name of the board or nominee name as provided by KRS 286.3-225, as the board deems most advantageous for the objects of the fund, in interest-bearing bonds of any county, or any city~~of the first, second or third class~~ in this state, or in any securities in which trustees are permitted to invest trust funds under the laws of this state, including a local government pension investment fund created pursuant to KRS 95.895. The securities shall be subject to the order of the board.

Section 131. KRS 95.610 is amended to read as follows:

KRS 95.610 ~~Pension fund~~ Payments to ***pension fund established under KRS 95.520 – Disbursements – Insufficient funds.***

(1) The officers of cities *with pension funds established under Section 121 of this Act that are*~~[of the third class]~~ designated by law to draw warrants on the city treasurer shall, on request in writing by the board of trustees of the pension fund, draw warrants on the city treasurer payable to the treasurer of the board of trustees of the pension fund for all funds belonging to the pension fund.

(2) Moneys ordered paid from the pension fund to any person shall be paid by the treasurer of the board of trustees only upon warrant signed by the president of the board and countersigned by the secretary. No warrant shall be drawn except by order of the board of trustees duly entered on the records of the proceedings of the board.

(3) If at any time there is not sufficient money in the pension fund to pay each beneficiary the full amount per month to which he is entitled, an equal percentage of the monthly payments due shall be paid to each until the fund is so replenished as to warrant payment in full to all beneficiaries.

Section 132. KRS 95.620 is amended to read as follows:

KRS 95.620 Pension fund *established under KRS 95.520* to be used to pay pensions and benefits – Exceptions – Refund of contributions.

(1) Except for court or administratively ordered current child support, or owed child support, or to-be-owed child support, and except as provided in KRS 65.156 and subsections (2), (3) and (4) of this section, the policemen's and firefighters' pension fund *established under Section 121 of this Act*~~[in cities of the third or fourth class]~~ shall be held and distributed for the purpose of paying pensions and benefits, and for no other purpose.

(2) From July 15, 1982, and thereafter, the board of trustees of the pension fund shall, upon the request of a member, refund a member's contributions, including contributions picked up by the employer pursuant to KRS 65.155, upon that member's withdrawal from service prior to qualifying for pension. The member shall be entitled to receive a refund of the amount of contributions made by the member, including contributions picked up by the employer pursuant to KRS 65.155, after the date of establishment, without interest.

(3) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(4) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under the provisions hereof. After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six percent (6%) interest from the dates of refund to the date of repayment. Such repayments shall not be picked up by the employer pursuant to KRS 65.155. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

Section 133. KRS 95.621 is amended to read as follows:

KRS 95.621 Adoption *by city described in KRS 95.518* of alternative fund, effect – Members excluded, how – Coverage provided in County Employees Retirement System after August 1, 1988.

- (1) **If a city described in Section 120 of this Act adopted the alternative pension fund provisions under KRS 95.621 to 95.629 prior to August 1, 1988, to govern the pension fund for its policemen and firefighters.**~~[A city of the third class may adopt an ordinance creating a pension fund for firefighters and policemen pursuant to KRS 95.621 to 95.629 as an alternative to the fund established in KRS 95.520 to 95.620. In the event a third class city does elect to adopt KRS 95.621 to 95.629]~~ all the provisions **in this section**~~[herein]~~ are mandatory. The provisions of KRS 95.620 shall apply to any city~~[of the third class]~~ which has adopted KRS 95.621 to 95.629.
- (2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.
- (3) (a) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988;
- (b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System;
- (c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System;
- (d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section;
- (e) The city shall certify that all police and firefighters placed in the County Employees Retirement System, and not covered by Social Security for their employment with the city, are employed in hazardous positions. If the police and firefighters are covered by Social Security for their employment with the city, the city may certify that they are employed in hazardous positions; and
- (f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.621 to 95.629 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4).

Section 134. KRS 95.622 is amended to read as follows:

KRS 95.622 Pension fund created **in cities adopting provisions of KRS 95.621 to 95.629 – Board of trustees, members, officers, powers.**

- (1) There shall be created in cities **that elected to adopt the provisions of KRS 95.621 to 95.629**~~[of the third class]~~ a policemen's and firefighter's pension fund, and a board of trustees for that fund.
- (2) In **these** cities~~[of the third class]~~ where there are fewer than six (6) active members of the pension fund, the board of trustees of the policemen's and firefighter's pension fund shall be composed of the mayor, city treasurer, and one (1) retired member each from the police and fire departments shall be elected by the respective retired members of those departments annually by ballot, one (1) from each department, and shall serve for one (1) year and until their successors are elected and qualified. If there are six (6) or more active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of the fund from each department elected by the active members of the fund from the respective departments and who shall serve for

one (1) year and until their successors are elected and qualified. If all of the six (6) or more active members or all of the retired members are from one (1) department, then both of the active member board members or both of the retired board members, as the case may be, shall be elected from that department. The board shall select from their number a president and a secretary. The board of trustees shall be the trustees of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) The board of trustees may draw the pension fund from the treasury and invest it, in whole or in part, in the name of the board or nominee name as provided by KRS 286.3-225, as the board deems most advantageous for the objects of the fund, in a local government pension investment fund created pursuant to KRS 95.895 or in any other securities in which trustees are permitted to invest trust funds under the laws of this state. The securities shall be subject to the order of the board.

(4) The board of trustees membership shall be restructured according to the provisions of this section at the time of the next scheduled election of board members after July 15, 1990.

Section 135. KRS 95.624 is amended to read as follows:

KRS 95.624 Pensions *in cities adopting alternative provisions of KRS 95.621* – Service retirement – Disability pensions – Survivor's benefits – Increase in benefits – Health insurance for retirees.

(1) In cities *that have adopted the alternative pension fund provisions authorized by Section 133 of this Act*~~[of the third class]~~, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement; and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement. If this petition for retirement is denied, any policeman or firefighter has the right of appeal in accordance with the Rules of Civil Procedure.

(2) The pension payable for periods of service between twenty (20) and twenty-five (25) years shall be fifty percent (50%) of salary plus two percent (2%) of salary for each year in excess of twenty (20). The pension payable for twenty-five (25) years of service shall be sixty percent (60%) of salary. The pension payable for periods of service between twenty-five (25) and thirty (30) years shall be sixty percent (60%) of salary plus three percent (3%) of salary for each year in excess of twenty-five (25). The pension payable for thirty (30) years of service shall be seventy-five percent (75%) of salary.

(3) The pensions or benefits paid for disability or death from the policemen's and *firefighters'*~~firefighter's~~ pension fund *created under Section 134 of this Act*~~[in cities of the third class]~~ shall be as follows:

(a) If any member of the police and fire department becomes temporarily totally disabled, physically or mentally, the board of trustees of the pension fund shall order paid to him monthly, during his disability, until he has recovered and returned to active duty, a sum of not more than one-half (1/2) his salary per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period.

(b) If any member of the police or fire department becomes permanently disabled, physically or mentally, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty percent (50%) of his monthly salary at the time of his retirement.

(c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation,

or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after one (1) year of service in the department and leaves a widow or a child under eighteen (18) years of age, the board of trustees shall order a pension paid to the widow, while unmarried, of one-half (1/2) of salary per month and for each child until it reaches the age of eighteen (18) years, twenty-four dollars (\$24) per month. The board may provide a minimum benefit of no more than four hundred dollars (\$400) per month, initially, to the surviving spouse if the benefit can be supported on an actuarially-sound basis by the fund. The board may increase the minimum benefit pursuant to the terms of subsection (4) of this section. If the deceased member was unmarried and childless, a pension shall be paid to his dependent father and mother of one-fourth (1/4) of salary per month. If one (1) parent is dead, the other shall receive the entire one-fourth (1/4) salary.

(4) In order to adjust retirement benefits to the purchasing power of the dollar, the board shall if it is actuarially feasible annually order an increase in benefits paid pursuant to this section. The board shall if it is actuarially feasible order an increase in benefits by an amount equal to the increase in the cost-of-living increase for a recipient of Social Security, but the annual increase shall not exceed five percent (5%).

(5) The board may provide a group hospital and medical insurance plan for retirees and their spouses who have not reached the age to qualify for federal Medicare, if providing insurance will not jeopardize the capacity of the board to pay retirement and survivor benefits. No insurance shall be provided for persons who are entitled to Medicare benefits or are receiving Medicare benefits, except that supplemental health insurance may be provided to those retirees and their spouses who are entitled to Medicare benefits or are receiving Medicare benefits if providing the supplemental health insurance will not jeopardize the capacity of the board to pay other existing retirement and survivor benefits.

Section 136. KRS 95.625 is amended to read as follows:

KRS 95.625 Military service of member, effect *on alternative pension fund provisions*. Any member of the police or fire department of a city that has adopted the alternative pension fund provisions authorized by Section 133 of this Act ~~of the third class~~, who, while a member of the police or fire department entered the armed forces of the United States, and who was honorably discharged therefrom shall upon his return to that police or fire department be entitled to the same pension or benefits provided by KRS 95.621 to 95.629 as if the member had remained on active duty with that police or fire department, and his time served in the armed forces shall be added to his previous service and shall be construed for purposes of eligibility for pensions or benefits, either for himself or his beneficiaries, as a part and continuation of his consecutive years of service with that police or fire department; except this section shall apply only to those members who served in World War II or any emergency conflict called by the President of the United States, who apply for reinstatement within ninety (90) days after the date on which the member first received or could have received an honorable discharge and shall not apply to those members reenlisting in the armed forces of the United States.

Section 137. KRS 95.627 is amended to read as follows:

KRS 95.627 Pension fund *created pursuant to KRS 95.622*, sources – Use.

(1) The policemen's and firefighters' pension fund created pursuant to Section 134 of this Act ~~in cities of the third class~~ shall consist of:

(a) Revenues of the city authorized by the city legislative body, which shall be not less than the

amount contributed by the members of the police and fire departments. Policemen and firefighters shall contribute the same rate as Social Security from their salary.

(b) All rewards, fees, gifts and emoluments paid or given on account of extraordinary service of any member of the police or fire department.

(2) Both the principal and interest of the pension fund shall be applicable to the payment of pensions **governed by the provisions of KRS 95.621 to 95.629**~~[in cities of the third class].~~

Section 138. KRS 95.629 is amended to read as follows:

KRS 95.629 City's obligation ***in alternative pension fund provisions*** – Pension fund support by city, how computed.

(1) In case of insufficient funds the city will be held responsible for the payment of the monthly payments of the pension fund after the entire proceeds of said pension fund have been transferred to the general fund of the city **that has adopted the alternative pension fund provisions authorized by Section 133 of this Act**~~[of the third class].~~

(2) Revenues of the city authorized by the city legislative body to support the pension fund shall be computed by determining the amount needed to meet the monthly requirements of KRS 95.621 to 95.629.

Section 139. KRS 95.630 is amended to read as follows:

KRS 95.630 Group life insurance for police and fire departments ***in cities of home rule class***.

(1) The legislative bodies of cities of the **home rule class**~~[second and third classes]~~ or urban-county governments may, by ordinance, form the members of the police and fire departments into groups to obtain the advantages of the group plan of life insurance.

(2) The legislative bodies may aid the members of the police and fire departments by paying from city funds not to exceed fifty percent (50%) of the annual premiums on the policies, and may contract with the insurer on such other terms as may be provided for in the ordinance.

Section 140. KRS 95.761 is amended to read as follows:

KRS 95.761 Adoption of civil service, employees retirement system, and police and firefighters' pension plan ***in cities with population of 1,000 to 7,999*** – Exemptions from classified service – Limitations on creation of new fund after August 1, 1988.

(1) Any city **with a population equal to or greater than one thousand (1,000) but less than eight thousand (8,000) based upon the most recent federal decennial census**~~[of the fourth or fifth class]~~ which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments. **If a city elects to establish a civil service system for its police and fire employees under this section, then it may adopt either the provisions of this section, or KRS 95.762, 95.763, 95.764, 95.765, and 95.766, or it may adopt the provisions of KRS 90.300 to 90.420. A city meeting the population criteria of this subsection may adopt the provisions of KRS 90.300 to 90.420 for municipal employees who are not police or fire personnel.**

(2) **Any city** ~~[A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and firefighters' pension fund, the same as a city of the third class.~~

~~(3) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 90.300 to 90.420 governing civil service, the same as a city of the third class, and]may provide a retirement system for any of its employees, including police and firefighters, pursuant to KRS 90.400 or 90.410.~~

If a city creates a retirement system for its police and firefighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

~~(3)(4)~~ A city meeting the criteria of subsection (6) of this section~~of the fourth or fifth class~~ may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employees, or either KRS 95.520 to 95.620 or KRS 95.767 to 95.784 for its police and firefighters.†

~~(5) The legislative body of the city of the fourth or fifth class may not establish or continue a retirement system for any of its employees unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section, or unless the city adopts a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. If a city has adopted a retirement system but has not done so pursuant to the options listed in this subsection or in subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems.† After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employee covered thereby.~~

~~(4)(6)~~ (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of firefighters and assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

~~(5)(7)~~ After August 1, 1988, no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852, or by adopting a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. Any city which adopted a pension system pursuant to this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(6) As used in subsections (2) and (3) of this section, "city" means only those cities that were previously classified as cities of the fourth and fifth class under the classification system that was in effect before August 1, 1988.

SECTION 141. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

KRS 95.7665 Applicability of KRS 95.767 to 95.784.

The provisions of KRS 95.767 to 95.784 shall only apply to those cities that were previously classified as cities of the fourth or fifth class prior to August 1, 1988, under the city classification system that was in effect prior to August 1, 1988, or to any other city that established a policemen's and firefighters' pension program specifically under the

provisions of KRS 95.767 to 95.784 prior to August 1, 1988.

Section 142. KRS 95.768 is amended to read as follows:

KRS 95.768 Pension fund in cities of the fourth class **establishing a fund under KRS 95.767 to 95.784** – Purpose – Investment – Coverage provided in County Employees Retirement System after August 1, 1988.

(1) The police and firefighters' pension fund in cities **that have established a fund pursuant to KRS 95.767 to 95.784**~~[of the fourth class]~~ shall consist of:

(a) Revenues of the city authorized by the city legislative body, which shall not be less than the amount contributed by the members of the police and fire departments;

(b) All rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department;

(c) Assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half percent (3.5%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund. Beginning July 15, 1982, and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).

(2) Said fund shall be for the pensioning of any policeman or firefighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Firefighters' Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

(3) (a) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System.

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System.

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System are employed in hazardous positions.

Section 14183. KRS 95.772 is amended to read as follows:

The said board of trustees of the policemen's and firefighters' pension fund shall have the power to draw such pension fund from the treasury and may invest the same, or any part thereof, in the name of the board of trustees of the policemen's and firefighters' pension fund or nominee name as provided by KRS 286.3-225, in interest-bearing bonds of the United States or the State of Kentucky, or any county or city ~~of the first, second, third or fourth class~~ in the State of Kentucky, or in any securities in which trustees or guardians are permitted to invest trust or guardianship funds under the laws of this state including a local government pension investment fund created pursuant to KRS 95.895, and all such securities shall be subject to the order of said board. Both the principal and interest of said pension fund shall be applicable to the payment of pensions under KRS 95.761 to 95.785.

Section 144. KRS 95.783 is amended to read as follows:

In the event that the provisions of KRS ~~95.767 to 95.784~~ ^{95.761 to 95.785} are accepted and adopted by the legislative body of a city, as authorized in Section 141 of this Act ~~of the fourth class~~ by ordinance, as herein provided, the repeal of such ordinance shall not become effective unless adopted by the unanimous vote of the duly elected members of such legislative body. In the event a repeal ordinance is adopted by such legislative body, all moneys or property belonging to the policemen's and firefighters' pension fund at the time of the repeal of the said adoption ordinance shall be dissolved or liquidated by the board of trustees of said policemen's and firefighters' pension fund and distributed by said board in the following manner: Within sixty (60) days of adoption by said legislative body of said repeal ordinance, the said board of trustees shall proceed with the liquidation of said pension fund as follows: All unexpended moneys appropriated to said pension fund out of the said city's general fund to the policemen's and firefighters' pension fund by the said legislative body of such city and at the time of adoption of a repeal ordinance shall revert back to the city's general fund. All other unexpended moneys or property which has come into the said pension fund's hands shall be liquidated by said board of trustees in the following manner: All unexpended moneys in the said pension fund which accumulated thereto by pick up of employee contributions by the employer pursuant to KRS 65.155 or assessments from policemen's and firefighters' salaries and gifts, or accumulated thereto in any manner except appropriations from the said city's general fund, shall revert back to the active or retired policemen and firefighters and dependents who have qualified under KRS 95.761 to 95.785 in such city. In the division to the beneficiaries, the board of said trustees shall use in the division of said fund the per centum of the present salaries of such members. After all disbursements have been made of said fund by the board of trustees, the said board of trustees shall file, as their last act, a complete report of same with said legislative body within thirty (30) days, and such report shall be kept in the office of the city clerk as other city records.

Section 145. KRS 95.785 is amended to read as follows:

When the provisions of KRS 95.761 to 95.784 have been accepted and adopted by the legislative body of any city ~~of the fourth class~~, KRS 95.710 and 95.760 shall not apply to that city.

Section 146. KRS 95.851 is amended to read as follows:

KRS 95.851 Definitions for KRS 95.852 to 95.884 and 95.881.

Words and phrases, used in KRS 95.851 to 95.884 and KRS 95.991, unless a different meaning is clearly indicated by the context, shall have the following meanings:

- (1) "Fund" shall mean the "Policemen's and Firefighters' Retirement Fund of the City of _____."
- (2) "City" shall mean any city that was previously classified as a city of the second class prior to August 1, 1988, under the city classification system that was in effect prior to August 1, 1988, or to any other city that established a policemen's and firefighters' retirement fund specifically under the provisions of KRS 95.851 to 95.884 prior to August 1, 1988 ~~[of the second class in the State of Kentucky, or city of the second class which may subsequently attain first-class status].~~
- (3) "Department" shall mean the police department or the fire department of a city.
- (4) "Board" shall mean the board of trustees provided for herein as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund.
- (5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund.
- (6) "Service" shall mean actual employment in a department of a city for salary or compensation, or service otherwise creditable as herein provided.
- (7) "Prior service" shall mean service rendered prior to the date of establishment.
- (8) "Membership service" shall mean service rendered on or after the date of establishment.
- (9) "Total service" shall mean prior service, membership service, and military service.
- (10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be three percent (3%) per annum, compounded annually.
- (11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder.
- (12) "Occupational death" shall mean death due to occupational causes, including but not limited to injury or disease.
- (13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, and includes employee contributions picked up by the employer pursuant to KRS 65.155.
- (14) The masculine pronoun, wherever used, shall include the feminine pronoun; also, widow shall include widower.
- (15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following.
- (16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

Section 147. KRS 95.852 is amended to read as follows:

KRS 95.852 Retirement and benefit fund established in cities meeting definition of KRS 95.851(2) – Name – Coverage provided in County Employees Retirement System after August 1, 1988.

- (1) There is hereby established in cities ~~[of the second class]~~, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries, unless the

policemen and firefighters are included in the membership of the County Employees Retirement System and certified to be working in hazardous positions. The fund shall be established as of July 1, 1956, and shall be known as the "Policemen's and Firefighters' Retirement Fund of the City of _____." In such name all of its business shall be transacted, and in such name or nominee name as provided by KRS 286.3-225 all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

(2) (a) After August 1, 1988, no new pension fund shall be created pursuant to this section and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988;

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System;

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section;

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System are employed in hazardous positions; and

(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.851 to 95.884 and KRS 95.991 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4).

Section 148. KRS 95.873 is amended to read as follows:

The board may invest the moneys accruing to the fund, in interest-bearing bonds of any county, urban-county government or city ~~of the first, second, or third class~~ in this state, or in any securities in which trustees are permitted to invest trust funds under the laws of this state including participation in a local government pension investment fund created pursuant to KRS 95.895. Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be subject to the order of the board. The board may, at its own cost, employ or engage consultants to provide investment advice to aid the board in its determinations.

Section 149. KRS 95.883 is amended to read as follows:

(1) The order or determination of the board upon the rehearing shall be conclusive and binding, but any interested party may, within twenty (20) days after the rendition of the order of the board, by petition appeal to the Circuit Court of the county in which the city ~~of the second class~~ is located for a review of the order of the board.

(2) The petition shall state fully the grounds upon which a review is sought, assign all errors relied on and be verified by the petitioner who shall furnish a copy to the board at the time of the filing of the same. Summons shall be issued directing the board to answer within twenty (20) days and directing the board to send the original record to the circuit clerk certifying that such record is the entire original record of the rehearing which shall be filed by the clerk of the Circuit Court and such record shall then become and be considered by the Circuit Court on the review. The appeal provided for herein shall not be considered effective unless the person making the appeal has paid to the board one-half (1/2) of the cost of the transcript of the record of the rehearing within the

period provided for making the appeal.

(3) No new nor additional evidence may be introduced in the Circuit Court except as to fraud or misconduct of some person engaged in the administration of KRS 95.851 to 95.884 and KRS 95.991, and affecting the order, decision, or determination appealed from, but the court shall otherwise hear the cause upon the record as certified by the board and shall dispose of the cause in summary manner, its review being limited to determining whether or not:

- (a) The board acted without or in excess of its powers;
- (b) The order, decision, or determination was procured by fraud;
- (c) The order, decision, or determination of the board is not in conformity with the provisions of KRS 95.851 to 95.884 and KRS 95.991;
- (d) If findings of fact are in issue the party seeking to set aside any order, decision, or determination of the board shall have the burden of proof to show by clear and satisfactory evidence that the order, decision, or determination is unreasonable or unlawful. If upon appeal as herein provided the order, decision, or determination of the board is reversed the party perfecting the appeal shall be refunded by the board his portion of the costs paid for the transcript of the record made on the rehearing.

(4) The board and each interested party may appear before the Circuit Court. The court shall enter judgment affirming, modifying, or setting aside the order, decision, or determination appealed from, or in its discretion remand the cause to the board for further proceedings in conformity with the direction of the court. The court may, before judgment and upon a sufficient showing of fact, remand the cause to the board.

* * * * *

Section 263. KRS 183.880 is amended to read as follows:

The airport board created by a county containing a city *with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census* ~~of the second class~~, an urban-county government, or created jointly by a city of the first class and county is authorized to establish a safety and security department and appoint safety and security officers and other employees for the public airport for which it is responsible, to prescribe distinctive uniforms for the safety and security officers of the airport board, and to designate and operate emergency vehicles. Safety and security officers so appointed shall take an appropriate oath of office, in form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the airport board.

* * * * *

Section 283. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The department shall charge a license fee not to exceed two thousand five hundred dollars (\$2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors. Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

- (a) The address of the facility;
 - (b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;
 - (c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;
 - (d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;
 - (e) A copy of the lease agreement used by the applicant; and
 - (f) Any other information the department deems appropriate.
- (3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:
- (a) Manage or otherwise be involved in the conduct of charitable gaming;
 - (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
 - (c) Handle any moneys generated in the conduct of charitable gaming;
 - (d) Advise a licensed charitable organization on the expenditure of net receipts;
 - (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
 - (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
 - (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;
 - (h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or
 - (i) Donate or give any prize to be awarded in the conduct of charitable gaming.
- (4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The department by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the department. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.
- (5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:
- (a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in **one (1) of the following:**
- 1. A city containing a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census;**

2. An urban-county government;

3. A consolidated local government;

4. A charter county government; or

5. A county containing a city of the first class or a city containing a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census [a city of the first class, in a city of the second class, in an urban-county, in a consolidated local government, or charter county government, or in a county containing a city of the first class or second class];

(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city other than those listed in paragraph (a) of this subsection [of the third class, fourth class, fifth class, or sixth class], or in a county that does not contain a city that is listed in paragraph (a) of this subsection [of the first class or second class].

(6) A licensed charitable gaming facility shall report at least quarterly to the department and shall provide any information concerning its operation that the department may require.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the department, law enforcement officials, and other interested officials.

* * * * *

Section 291. KRS 242.125 is amended to read as follows:

KRS 242.125 Separate vote to determine wet, moist, or dry status in cities of the first four classes with populations of 3,000 or more – Right of city precincts to vote for separate dry status.

(1) As used in this section, "city" or "cities" means a city or cities containing a population equal to or greater than three thousand (3,000) based upon the most recent federal decennial census [of the first four (4) classes].

(2) A city shall not be deemed to be the "same territory" as that of a county within the meaning of KRS 242.030(5). A city shall have the right to determine its wet or dry status separate from a county's wet or dry status.

(3) A dry or moist city may hold a local option election to take the sense of the city residents for establishing the city as a wet territory. If the majority of the votes are in favor of establishing the city as a wet territory, the whole city shall become wet territory by application of KRS 242.200.

(4) Once a city votes under this section to become wet territory separate from the county, a countywide local option election establishing the county as dry or moist territory shall not cause the city to become dry or moist territory.

(5) A wet city may hold a local option election to take the sense of the city residents for establishing the city as a dry or moist territory. If the majority of the votes are in favor of establishing the city as a dry or moist territory, the whole city shall become dry or moist territory by application of KRS 242.190.

(6) If a city votes to become wet territory, a precinct of the city may hold a later election in conformity with this chapter to take the sense of the city precinct residents for establishing the city precinct as a dry or moist territory. If the majority of the votes are in favor of establishing the city precinct as a dry or moist territory, the city precinct shall become dry or moist territory by application of KRS 242.190.

(7) If a city precinct becomes dry or moist territory separate from a wet city, the city precinct may hold a later election in conformity with this chapter, to take the sense of the city precinct residents for reestablishing the city precinct as a wet territory. If the majority of the votes are in favor of reestablishing the city precinct as a wet territory, the city precinct shall become wet territory by application of KRS 242.200.

(8) A dry or moist county containing a wet city may hold a local option election to take the sense of the county residents for establishing the county as a wet territory. If the majority of the votes are in favor of establishing the county as a wet territory, the whole county shall become wet territory by application of KRS 242.200.

(9) A wet county containing a wet city by separate city election under this section may hold a local option election to take the sense of the county residents for establishing the county as a dry or moist territory. If the majority of the votes are in favor of establishing the county as a dry or moist territory, the county territory outside the wet city limits shall become dry or moist territory by application of KRS 242.190.

(10) Residents of any city, including a separately wet city, are residents of the county, and shall therefore be permitted to sign any petitions for, and vote in, county local option elections under this section.

(11) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of county, city, or precinct)?'".

(12) In any local option election under this section, the proposition to be voted upon shall state "Are you in favor of the sale of alcoholic beverages in (name of county, city, or city precinct)?".

(13) The status of any moist territory approving limited alcoholic beverage sales through a previous election held under KRS 242.123, 242.124, 242.1242, and 242.1244, or any other limited local option election, shall not be affected by any outcome of any election held under this section. A territory's moist status may only be changed by a local option election on the original same moist election proposition.

(14) Any city that does not meet the population requirements of subsection (1) of this section that held a separate city-wide election pursuant to subsections (1) to (4) of this section prior to January 1, 2015, shall maintain its wet status and shall be treated as a city as defined in this section for the purposes of subsections (5) to (13) of this section.

Section 292. KRS 242.126 is amended to read as follows:

(1) The adoption of urban-county government by a county ~~containing a city or cities of the first four (4) classes~~ when the local option status of the county is different from any of the cities contained therein shall not affect the local option status of the county or any of the cities ~~of the first four (4) classes~~ contained therein. The territorial boundaries in the~~any~~ county ~~containing a city of the first four (4) classes~~ shall survive the adoption of urban-county government for purposes of an election pursuant to KRS 242.125. The adoption of urban-county government shall not impede or affect the right of a county or city ~~of the first four (4) classes~~ contained therein to determine its own local option status.

(2) No part of this section shall apply to any urban-county government established prior to July

13, 1990.

Section 293. KRS 242.127 is amended to read as follows:

KRS 242.127 Sale of distilled spirits or wine by the drink in wet city of the fourth class **with population of 3,000 to 7,999** – Local option election.

(1) In any wet city **with a population equal to or greater than three thousand (3,000) but less than eight thousand (8,000) based upon the most recent federal decennial census** ~~of the fourth class~~, an election may be held in the manner prescribed in this chapter to take the sense of the people of the city as to the sale of distilled spirits or wine by the drink for consumption on the premises in the city.

(2) An election held pursuant to this section shall be city-wide.

(3) The sale of distilled spirits or wine by the drink shall continue as authorized in this section in any city that does not meet the population requirements contained in this section that held an election pursuant to this section and KRS 242.129 prior to January 1, 2015.

Section 294. KRS 242.1292 is amended to read as follows:

KRS 242.1292 Limited sale precincts in cities of second class **with populations of 20,000 or more.**

(1) The provisions of this section shall be applicable **only** in any city **with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census** ~~of the second class~~ notwithstanding any other provisions of this chapter relating to the wet or moist status in any county, city, or territory which may be to the contrary.

(2) In any city **meeting the population requirements of subsection (1) of this section** ~~of the second class~~ that is dry or moist in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection (11) of this section, the governing body of the city shall by ordinance designate the precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in the precinct or precincts to take the sense of the people of each precinct as to making that precinct wet territory. A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of precinct)?'".

(3) The election shall be held in the precinct or precincts in the manner prescribed in this chapter. The election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030.

(4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?".

(5) If a majority of the votes cast in any limited sale precinct in which an election is held under this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator.

(6) The governing body of the city shall adopt the comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale of alcoholic beverages, including, but not limited to, distilled spirits and malt beverages, within a limited sale precinct as set forth in this section. In relation to the ordinances established by a city **meeting the population requirements of subsection (1) of this section** ~~of the second class~~ under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do

not exceed the limits established for sale by statute, or administrative regulations promulgated by the board under those statutes. In its discretion the governing body shall provide without review by the board that:

(a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.

(b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1) license in each limited sale precinct may be reserved for any newly established hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel, or inn meeting the aforesaid requirements or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. Additional licenses to sell alcoholic beverages by the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members of bona fide fraternal or veterans organizations.

(7) The governing body of the city may also incorporate in the regulatory ordinance any other reasonable rules and regulations as it deems, necessary or desirable for the proper administration and enforcement of this section, for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070.

(8) Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070, once any limited sale precinct has been established as wet territory, the governing body of the city may impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at the percentage rate as shall be reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.

(9) Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of the precinct to petition for a subsequent election on the same question.

(10) If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of the entire city or the entire county becoming dry, wet, or moist, the status of that question in a limited sale precinct shall be determined in the following manner:

(a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if the limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and if so the voters of any limited sale precinct shall not vote in the election.

(b) If the limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?". No other question shall be presented to the voters of any limited sale precinct.

(c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages

therein as a limited sale precinct, then the status shall continue within the precinct, except that if the city or the county in which the limited sale precinct is located votes wet in the remainder of the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and thereafter the status of the precinct shall be the same as that in effect for the remainder of the city or the county.

(11) Any precinct located entirely within any city meeting the population requirements of subsection (1) of this section ~~of the second class~~ that is dry in all or part of the city shall be designated as a limited sale precinct by the governing body of the city if:

(a) The governing body determines to its satisfaction that the general trade, business, and economy of one (1) or more of the precincts within the city is substantially, adversely affected by the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district, or precinct. For the purpose of making this determination, the governing body may hold hearings, examine witnesses, or receive evidence as it believes necessary or desirable for the purpose; or

(b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate the precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state his or her post office address and the correct date upon which his or her name is signed. Upon receipt of the petition, the mayor shall present it to the governing body of the city at its next regularly scheduled meeting and, after verifying that the petition is in compliance with the requirements of this section, the governing body shall forthwith by ordinance designate the precinct to be a limited sale precinct.

Section 295. KRS 243.033 is amended to read as follows:

(1) A caterer's license may be issued as a supplementary license to a caterer that holds a quota retail package license, a quota retail drink license, an NQ1 license, an NQ2 license, or a limited restaurant license.

(2) The caterer's license may be issued as a primary license to a caterer in any wet territory or in any moist territory established under KRS 242.125 for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.

(3) The caterer's license shall authorize the caterer to:

(a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310;

(b) Transport, sell, serve, and deliver malt beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and malt beverages for a customer and his or her guests, in:

1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and malt beverages; or

2. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and malt beverages;

(c) Transport, sell, serve, and deliver distilled spirits and wine by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and his or her guests, in:

1. Cities and counties established as moist territory under KRS 242.1244 if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;
2. Cities~~[of the fourth class]~~ and counties~~[containing cities of the fourth class]~~ established as wet or moist territory permitting distilled spirits and wine drink sales by ordinance under KRS 243.072 if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or
3. All other wet territory in which the sale of distilled spirits and wine by the drink is authorized if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;
- (d) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
- (e) Receive payment for alcoholic beverages served at a catered event on a by-the-drink or by-the-event basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. A caterer licensee may cater a fundraising event for which a special temporary distilled spirits and wine auction license has been issued under KRS 243.036.
- (5) A caterer licensee shall not cater distilled spirits and wine on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290 and 244.295. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS 244.480.
- (6) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.
- (7) The caterer licensee shall post a copy of his or her caterer's license at the location of the function for which alcoholic beverages are catered.
- (8) The name and license numbers of the caterer shall be painted or securely attached, in a contrasting color, in a form prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.
- (9) All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee not inconsistent with this section shall apply to the caterer licensee.
- (10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.

Section 295. KRS 243.072 is amended to read as follows:

KRS 243.072 Economic hardship determinations for regulatory ordinances by a city ~~of the fourth class~~ ***with population of 3,000 to 7,999*** – Administrative regulations.

- (1) This section shall apply to any wet city ***with a population equal to or greater than three thousand (3,000) but less than eight thousand (8,000) based upon the most recent federal decennial census***~~[of the fourth class]~~ or county containing a wet city ***meeting the population requirements of this subsection***~~[of the fourth class]~~, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.
- (2) Upon a determination by the legislative body that an economic hardship exists within the wet city or county and that the sale of alcoholic beverages by the drink could aid economic growth, the

legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(3) Nonquota type 2 (NQ2) retail drink licenses authorizing all types of alcoholic beverage sales shall only be issued to hotels and restaurants having dining facilities for not less than one hundred (100) persons.

(4) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable administrative regulations as may be necessary for the enforcement or administration of this section, except that any administrative regulation adopted shall conform to the requirements of KRS 241.190.

(5) Any city or county enacting a comprehensive regulatory ordinance pursuant to this section prior to January 1, 2014, covering the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises is exempt from the application of the population requirements of subsection (1) of this section.

Section 296. KRS 243.075 is amended to read as follows:

(1) Notwithstanding the provisions of ~~KRS 243.060 and~~ KRS 243.070, in any **qualified** city ~~in which the discontinuance of prohibition is effective by virtue of a local option~~ of the third or fourth class that is wet or moist through an election held under KRS ~~Chapter 242~~ 242.125, the governing body of the city and the governing body of the county containing a **qualified** city ~~of the third or fourth class~~ is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each budget period at a percentage rate as shall be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:

(a) A credit against a regulatory license fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city **or county** pursuant to KRS **243.060 or** 243.070; and

(b) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.

(2) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS **243.060 or** 243.070, a city or county that **is moist through a local option election held under KRS 242.1244, or that issues licenses** ~~qualifies~~ under KRS 243.072 may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell distilled spirits, wine, or malt beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS **243.060 or** 243.070.

(3) (a) As used in this section, "qualified city" means a city on the registry maintained by the Department for Local Government under paragraph (b) of this subsection.

(b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of January 1, 2014, were classified as cities of the third or

fourth class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

Section 297. KRS 243.230 is amended to read as follows:

(1) ~~(a)~~ Quota retail drink licenses and NQ2 retail drink licenses may be issued only for premises located within **urban-county governments, cities containing a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census** of the first, second, or third class, or elsewhere in counties containing **an urban-county government or such a city** of the first, second, or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(b) If one (1) or more quota retail drink licenses or NQ2 retail drink licenses have been issued to establishments in a city that does not meet the population requirements of paragraph (a) of this subsection or in a county that does not contain a city meeting the population requirements of paragraph (a) of this subsection prior to January 1, 2015, then that county or city shall continue to be treated in a manner as if the city or county meets the requirements of paragraph (a) of this subsection.

(2) Notwithstanding subsection (1) of this section, an NQ2 retail drink license may be issued to a restaurant with seating for fifty (50) patrons at tables in any wet territory, but a license issued under this subsection shall only have the privileges of a license issued under KRS 243.084(3).

(3) Notwithstanding subsection (1) of this section, quota retail drink licenses and NQ2 retail drink licenses may be issued for premises located within a city ~~of the fourth class~~ in which the majority of votes cast in the most recent election held under KRS 242.127 and 242.129 were in favor of the proposition voted upon if the city has an adequate police force under **Section 140 of this Act** ~~KRS 95.710 and 95.760~~ to **95.784** ~~95.787~~.

(4) Notwithstanding subsection (1) of this section, NQ2 retail drink licenses may be issued to qualifying premises located within a city ~~of the fourth class~~, or in a county ~~containing a city of the fourth class~~, if the city or county has enacted an economic hardship ordinance under KRS 243.072.

(5) ~~(a)~~ Quota retail package licenses may be issued only for premises located within incorporated cities, or elsewhere in counties containing **an urban-county government or a city with a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census** of the first, second, or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(b) If one (1) or more quota retail package licenses have been issued to establishments in a county that does not contain a city meeting the population requirements of paragraph (a) of this subsection prior to January 1, 2015, then that county shall continue to be treated in a manner as if the county meets the qualifications of paragraph (a) of this subsection.

(6) Notwithstanding subsection (5) of this section, the department may, after a field investigation, issue a quota retail package license to premises not located within any city if **the county maintains an adequate police force under KRS 70.540 and 70.150 to 70.170, and if**

(a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;

(b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, where applicable, and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store, or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.

(7) No quota retail package license or quota retail drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in

which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

Section 299. KRS 243.260 is amended to read as follows:

(1) A special temporary license may be issued in wet territory to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity therefor exists. This license shall authorize the licensee to exercise the privileges of a quota retail drink licensee and an NQ4 retail malt beverage drink licensee at designated premises for a specified and limited time, not to exceed thirty (30) days, and shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine quota retail drink licensee or an NQ4 retail malt beverage drink license shall apply also to a special temporary licensee.

(2) A nonprofit organization holding an NQ4 retail malt beverage drink license may be issued a special temporary license to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, reception, reunions, or similar occasions.

(3) The holder of a special temporary license may sell, serve, and deliver distilled spirits, wine, or malt beverages by the drink, for consumption at the event only in:

(a) Those cities and counties where quota retail drink licenses are authorized to be issued under Section 299 of this Act;

(b) A city ~~of the first, second, or third class, or a county containing a city of the first, second, or third class, or a city of the fourth class~~ approving retail distilled spirits and wine sales under KRS 242.127 and 242.129; or

(c) A city or county that has enacted an economic hardship ordinance under Section 296 of this Act.

(4) The holder of a special temporary license may only sell, serve, and deliver wine or malt beverages by the drink, for consumption at an event located in all other cities and counties not identified in subsection (3) of this section.

(5) A special temporary license shall not be issued for an event held in moist territory where only limited alcoholic beverages drink sales have been approved through a moist local option election.

Section 300. KRS 244.290 is amended to read as follows:

(1) (a) A premises that is licensed to sell distilled spirits or wine at retail shall be permitted to remain open during the hours the polls are open on any primary, or regular, local option, or special election day unless it is located where the legislative body of a city **with a population equal to or greater than three thousand (3,000) based on the most recent federal decennial census,** ~~of the first, second, third, or fourth class or an~~ urban-county government, consolidated local government, charter county government, unified local government, or the fiscal court of a county containing a city **with a population equal to or greater than three thousand (3,000) based on the most recent federal decennial census,** ~~of the first, second, third, or fourth class~~ adopts an ordinance that prohibits the sale of distilled spirits and wine or limits the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day during the hours the polls are open.

(b) This subsection shall only apply in a **wet or moist** territory ~~where prohibition is no longer in effect in whole or in part~~.

(c) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the fiscal court of a county ~~containing a city of the first, second, third, or fourth class~~ shall not by

ordinance or any other means:

1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city~~[of the first, second, third, or fourth class]~~ within that county; or
2. Impose an action upon a city~~[of the first, second, third, or fourth class]~~ within that county when that city has taken no formal action pursuant to this subsection.
- (2) In any county containing a city of the first **class, or a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census**~~[or second class]~~ in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.
- (3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail by the drink or by the package shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:
 - (a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or
 - (b) The legislative body of a city **with a population equal to or greater than three thousand (3,000) based on the most recent federal decennial census**~~[of the first, second, third, or fourth class or an]~~ urban-county government, consolidated local government, charter county government, unified local government, or the fiscal court of a county containing a city **with a population equal to or greater than three thousand (3,000) based on the most recent federal decennial census**~~[of the first, second, third, or fourth class]~~, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.
- (4) In any **city with a population equal to or greater than three thousand (3,000) based on the most recent federal decennial census, or in any** county containing **such** a city~~[of the first, second, or third class or any city located therein]~~ in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:
 - (a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and
 - (b) Receive less than fifty percent (50%) of their annual food and beverage income from the dining facilities from the sale of alcohol.
- (5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits director may issue a license to holders of a quota retail drink license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.
- (6) Any city~~[of the fourth class]~~ or county~~[containing a city of the fourth class]~~ which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 243.072, may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:
 - (a) The special Sunday retail drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 243.072; and
 - (b) The licensed retailers selling distilled spirits and wine by the drink have applied to the state director and meet all other legal requirements for obtaining a special Sunday retail drink license.
- (7) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any

county containing an urban-county government, consolidated local government, charter county government, or unified local government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government, consolidated local government, charter county government, or unified local government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government, consolidated local government, charter county government, or unified local government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

(8) Any city or county that has lawfully enacted a regulatory ordinance pursuant to this section prior to January 1, 2014, shall be deemed to meet the requirements for doing so set out in this section and may continue to enforce the ordinance pursuant to the provisions of this section.

Section 301. KRS 244.480 is amended to read as follows:

(1) Except as provided in subsection (4) of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.

(2) Except as provided in subsection (4) of this section, no retailer shall sell, give away, or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday.

(3) (a) A retailer may sell malt beverages during the hours the polls are open on a primary, or regular, local option, or special election day unless the retailer is located where the legislative body of an urban-county government, consolidated local government, charter county government, unified local government, ~~or a~~ city **containing a population equal to or greater than three thousand (3,000) based on the most recent federal decennial census** ~~of the first, second, third, or fourth class~~, or the fiscal court of a county containing **such a city** ~~an urban-county government or a city of the first, second, third, or fourth class~~, in which traffic in malt beverages is permitted by KRS Chapter 242 has adopted an ordinance that prohibits the sale of alcoholic beverages or limits the hours and times in which alcoholic beverages may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day.

(b) This subsection shall only apply in a **wet or moist** territory ~~where prohibition is no longer in effect in whole or in part~~.

(c) Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the fiscal court of a county ~~containing a city of the first, second, third, or fourth class~~ shall not by ordinance or any other means:

1. Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city ~~of the first, second, third, or fourth class~~ within that county; or

2. Impose an action upon a city ~~of the first, second, third, or fourth class~~ within that county when that city has taken no formal action pursuant to this subsection.

(4) The legislative body of an urban-county government, consolidated local government, charter county government, unified local government, ~~or a~~ city **with a population equal to or greater than three thousand (3,000) based on the most recent federal decennial census** ~~of the first, second, third, or fourth class~~ or ~~of a~~ county containing **such a city** ~~an urban-county government, consolidated local government, charter county government, unified local government, or a city of the first, second, third, or fourth class~~ in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power to establish the times in which malt beverages may be sold within its jurisdictional boundaries, including Sunday and any primary, or regular, local option, or special election day sales if the hours so fixed shall not prohibit the sale, gift, or delivery of any

malt beverages between 6 a.m. and midnight during any day, except Sunday.

(5) Any city or county that has lawfully enacted a regulatory ordinance pursuant to this section prior to January 1, 2014, shall be deemed to meet the requirements for doing so set out in this section and may continue to enforce the ordinance pursuant to the provisions of this section.

Section 302. KRS 244.540 is amended to read as follows:

(1) No licensee shall advertise any malt beverage by trade name, trade-mark or in any other manner within one hundred (100) feet of the property line of any school or church. The distance shall be by straight line.

(2) Subsection (1) shall not apply to advertisements placed on the establishment of brewers or distributors in operation prior to March 7, 1938, nor to signs in position on March 7, 1938, nor to signs located in urban-county governments, cities of the first ~~or second~~ class or cities containing a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census.

* * * * *

Section 310. KRS 605.050 is amended to read as follows:

(1) In counties containing a city of the first class or a city with a population equal to or greater than twenty thousand (20,000) as of the most recent federal decennial census~~or second class~~, the county judge/executive may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge/executive but shall be subject to the direction and control of the judges of the District Court in the performance of their duties. The officers shall be peace officers who shall possess all the powers of peace officers in carrying out the purposes of KRS Chapters 600 to 645. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his probation.

(2) In counties containing an urban-county government, the mayor shall appoint a chief probation officer of the juvenile session of the District Court and such number of assistant probation officers, professional and clerical personnel as are reasonably necessary for the operation of the juvenile session of the District Court. Such officers shall receive reasonable salaries to be fixed by the urban-county council, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the urban-county treasury. The officers shall serve at the pleasure of the mayor but shall be subject to the direction and control of the judges of the District Court in the performance of their duties. The officers shall be peace officers who shall possess all the powers of peace officers in carrying out the purposes of KRS Chapters 600 to 645. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his probation.

(3) In any county, the Chief District Judge may appoint or designate one (1) or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile session. Such volunteer probation officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court or the urban-county council, as appropriate, may authorize the payment of compensation and reasonable expenses out of the county or urban-county

treasury of any such officers.

Section 311. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.310 to ~~90.410~~~~90.420~~, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.852 to 95.884, and KRS Chapter 96, notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the County Employees Retirement System pursuant to KRS 78.520 to 78.852.

(2) (a) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employee contributions made to the fund under authority of KRS 67A.320, 67A.340, 67A.360 to 67A.690, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884, or KRS Chapter 96 shall be paid to the County Employees Retirement System and credited to the individual member's account in the system for any employee electing to terminate coverage under the provisions of this section. Any person who is an active member of the County Employees Retirement System on July 15, 1990, who withdrew from service prior to August 1, 1988, under any of the plans enumerated in this section and who was not granted a refund of his employee contributions, shall be refunded employee contributions with any interest specified in the applicable statute or plan, unless the employee has a vested account in the former plan, in which case he may elect to leave his contributions in the fund in order to receive a pension from the plan when he becomes eligible.

(b) Proper credit for these employee contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3). The cost of participation for employees who withdrew from service and who were not granted a refund for employee contributions shall be based only upon the time period for which the contributions were made. The cost shall be computed by the County Employees Retirement System in a manner consistent with the calculation of other delayed contribution payments, and shall be paid by the employee.

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employee contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884, or KRS Chapter 96 by each employee electing to terminate coverage under the provisions of this section shall be refunded to the employee with interest as specified in the applicable statute or plan, unless the employee has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

Section 312. KRS 363.670 is amended to read as follows:

The powers and duties given to and imposed upon the director by KRS 363.600 to 363.660 and KRS ~~363.690 and~~ 363.810 are hereby given to and imposed upon the deputy director and inspectors also when acting under the instructions and at the direction of the director.

Section 313. KRS 427.150 is amended to read as follows:

(1) To the extent reasonably necessary for the support of an individual and his dependents in addition to property totally exempt under subsection (2) of this section, that individual shall be entitled to exemption of money or property received and rights to receive money or property for alimony, support, or separate maintenance.

(2) An individual shall be entitled to exemption of the following property:

- (a) An award under a crime victim's reparation law;
- (b) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;
- (c) A payment, not to exceed seven thousand five hundred dollars (\$7,500), on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;
- (d) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;
- (e) Assets held, payments made and amounts payable under pensions exempt pursuant to KRS 61.690, 161.700, ~~427.120~~ and 427.125; or
- (f) The right or interest of a person in an individual retirement account or annuity, deferred compensation account, tax sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, or Section 408 or 408A of the Internal Revenue Code, as amended which qualifies for the deferral of income tax until the date benefits are distributed. This exemption shall also apply to the operation of the Federal Bankruptcy Code, for the purpose of applying the provisions of 11 U.S.C. sec. 522(b)(3) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law. This exemption shall not apply to any amounts contributed to an individual retirement account or annuity, deferred compensation account, a pension, profit-sharing, stock bonus, or other qualified retirement plan or annuity if the contribution occurs within one hundred twenty (120) days:
 - 1. Before the debtor files for bankruptcy if this exemption is being applied in a federal bankruptcy proceeding; or
 - 2. Before the earlier of the entry of the judgment or other ruling against the debtor or the issuance of the levy, attachment, garnishment, or other execution or order against which this exemption is being applied, if this exemption is being applied in other than a federal bankruptcy proceeding. This exemption shall not apply to the right or interest of a person in an individual retirement account or annuity, deferred compensation account, pension, profit-sharing, stock bonus, or other retirement plan to the extent that that right or interest is subject to any of the following:
 - a. An order of a court for payment of maintenance;
 - b. An order of a court for payment of child support.

Section 314. The following KRS sections are repealed:

- 70.330 Vacancy in constable's office in district containing city of sixth class -- Marshal may act as.
- 81.010 Classification of cities.
- 81.025 Laws applicable to city established by order applicable until reassignment by General Assembly.
- 81.026 Effect of reclassification of city on existing ordinances and officers.
- 81.032 Requirements for reclassification of an incorporated area.
- 81.034 Recording of data by General Assembly.
- 81.036 Recording of reclassification with Secretary of State.
- 81.045 City identity documents to be filed with the Secretary of State -- Effect of noncompliance.
- 81A.520 Annexation of impoundments of water by cities of the fifth class.
- 83A.110 Staggered terms for legislative body members.

90.420 Rights under former acts preserved.
 92.240 Board of equalization in cities of second class.
 92.250 Board of supervisors in cities of third class.
 92.260 Supervisors of taxes in cities of the fourth class.
 92.270 Board of equalization in cities in fifth and sixth classes.
 92.310 Licenses, how granted in cities of fifth and sixth classes.
 92.320 Licenses for horse-drawn vehicles, business authorized by.
 92.410 Definitions for purposes of assessment and taxation.
 92.420 Assessment date for city taxation.
 92.430 Assessment lists and assessment procedure in cities of second class.
 92.440 Equalization of assessments in cities of second class.
 92.450 Omitted property, action to assess in cities of second class.
 92.460 Assessment list and assessment procedure in cities of third class.
 92.470 Omitted property or irregular or improper assessment in cities of third class.
 92.480 Equalization of assessments in cities of third class.
 92.490 Assessment list and assessment procedure in cities of fourth class -- Census.
 92.500 Assessment in wrong name in cities of fourth class -- Failure to give true list of taxable property -- Omitted property.
 92.510 Equalization of assessments in cities of fourth class.
 92.520 Assessment list and assessment procedure in cities of fifth and sixth classes.
 92.530 Equalization of assessments in cities of fifth and sixth classes.
 92.540 Manner of assessment, levy and collection, how regulated by ordinance in cities of second, fifth and sixth classes.
 92.550 City tax records in cities of second class constitute notice -- Irregular tax proceedings.
 92.560 Tax bills, how made out and delivered in cities of second class.
 92.570 Tax bills, how made out and delivered in cities of third class.
 92.580 Tax bills, how made out and delivered in cities of fourth class.
 92.590 Time and manner of paying taxes in cities of second, third and fourth classes -- Discounts, interest and penalties.
 95.497 Hours of work and annual leave for members of police department -- Cities of third class.
 95.710 Qualifications of members of police and fire departments.
 95.715 Firefighters, hours off duty -- Cities of fourth class.
 95.760 Oath of policemen.
 95.787 Arrested persons, where kept in cities of fourth or fifth class.
 95.850 Disability, medical, and hospital benefits for members of police and fire departments.
 96.165 City classified from third class to second class to continue operation of combined electric and water system under provisions of KRS 96.171 to 96.188 -- When.
 96.210 Power of fifth-class city to furnish water and light.
 96.220 Power of sixth-class city to furnish water and light.
 198B.110 Effective dates for Uniform State Building Code -- Exemptions.
 242.1297 Election in a precinct in a city of the third class where the entire city is wet territory.
 363.680 City sealer of weights and measures in cities of first three classes.
 363.690 Powers of city sealer and deputies -- Concurrent powers of director.
 427.120 Police and firefighters' pension fund in cities of the first, second, and third classes -- Exempt from process in some cases.

Section 315. (1) In order for the Department for Local Government to fulfill its responsibilities for creating the registries as set out in Sections 10, 40, 41, 44, 91, 92, 112, 117, 118, 150, 280, and 297 of this Act, the Department shall take all necessary steps and actions to have those registries in place no later than January 1, 2015.

(2) In order for the Department of Education to fulfill its responsibilities for creating the registries as set out in Sections 223, 224, 226, 227, 228, and 238 of this Act, the Department shall take all necessary steps and actions to have those registries in place no later than January 1, 2015.

Section 316. Sections 1 to 314 of this Act take effect on January 1, 2015.

HOUSE BILL 343

DANGEROUS CONTRABAND

* * * * *

Section 3. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;

(3) "Dangerous contraband" means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080, any controlled substances, any quantity of an alcoholic beverage, and any quantity of marijuana, cell phones, and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any building and its premises used for the confinement of a person:

(a) Charged with or convicted of an offense;

(b) Alleged or found to be delinquent;

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained when the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in this section and KRS 520.015, "penitentiary" includes any facility operated by the Department of Corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Department of Corrections.

HOUSE BILL 364 REEMPLOYMENT OF RETIRED POLICE OFFICERS

SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

KRS 70.291 Definitions for KRS 70.291 to 70.293

As used in Section 1 to 3 of this Act, "police officer" shall have the same meaning as in KRS 15.420.

SECTION 2. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

KRS 70.292 Sheriff may employ retired police officer – Qualifications.

(1) A county sheriff's office in the Commonwealth of Kentucky may employ police officers who have retired under the Kentucky Employees Retirement System or the County Employees Retirement System as provided by Sections 1 to 3 of this Act.

(2) An individual employed under Sections 1 to 3 of this Act shall have:

(a) Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.515;

(b) Retired with at least twenty (20) years of service credit;

(c) Been separated from service for the period required by KRS 61.637 so that the member's retirement is not voided;

(d) Retired with no administrative charges pending; and

(e) Retired with no pre-existing agreement between the individual and the sheriff's office prior to the individual's retirement for the individual to return to work for the sheriff's office.

SECTION 319. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

KRS 70.293 Terms of employment of retired police officer.

(1) Individuals employed under Sections 1 to 3 of this Act shall:

(a) Serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the employing sheriff's office;

(b) Receive compensation according to the standard procedures applicable to the employing sheriff's office; and

(c) Be employed based upon need as determined by the employing sheriff's office.

(2) Notwithstanding any provisions of KRS 18A.225 to 18A.2287, 61.510 to 61.705, or 78.510 to 78.852 to the contrary:

(a) Individuals employed under Sections 1 to 3 of this Act shall continue to receive all retirement and health insurance benefits to which they were entitled upon retiring in the applicable system administered by Kentucky Retirement Systems;

(b) Individuals employed under Sections 1 to 3 of this Act shall not be eligible to receive health insurance coverage through the sheriff's office or the fiscal court of the sheriff's county;

(c) The sheriff's office or fiscal court of the sheriff's office shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by subsection (17) of Section 4 of this Act for individuals employed under this subsection; and

(d) The sheriff's office or fiscal court of the sheriff's office shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under this subsection.

(3) Individuals employed under Sections 1 to 3 of this Act shall be subject to any merit system, civil service, or other legislative due process provisions applicable to the sheriff's office. A decision not to renew a one (1) year appointment term under this section shall not be considered a disciplinary action or deprivation subject to due process.

Section 4. KRS 61.637 is amended to read as follows:

KRS 61.637 Suspension of retirement payments on reemployment – Reinstatement –

Recomputation of allowance – Waiver of provisions in certain instances – Reemployment in a different position – Effect of reemployment of retired member participating on or after September 1, 2008, **except as provided by KRS 70.291 to 70.293.**

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments

which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his

retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.

(17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a

retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. **Except as provided by Sections 1 to 3 of this Act,** the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. **Except as provided by Sections 1 to 3 of this Act,** the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the

retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided; and

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. **Except as provided by Sections 1 to 3 of this Act,** the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. **Except as provided by Sections 1 to 3 of this Act,** the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium.

HOUSE BILL 405 TELECOMMUNICATORS / EMERGENCY MANAGEMENT

SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

KRS 70.294 Employment contract for law enforcement telecommunicator.

(1) As used in this section, "law enforcement agency" means a city, county, consolidated local government, urban-county government, charter county government, unified local government, or state law enforcement agency, and includes a sheriff's office.

(2) (a) Law enforcement agencies may, as a condition of employment, require a newly appointed law enforcement telecommunicator to enter into an employment contract for a period of no longer than three (3) years from the date of graduation from the Department of Criminal Justice Training, or other training approved by the Kentucky Law Enforcement Council.

(b) If a law enforcement telecommunicator who has entered into a contract authorized under this section begins employment as a law enforcement telecommunicator with another law enforcement agency during the contractual period, that law enforcement agency or the law enforcement telecommunicator shall reimburse the law enforcement agency that initially hired the law enforcement telecommunicator for the actual costs incurred and expended which are associated with the initial hiring of that telecommunicator, including but not limited to the application process, training costs, equipment costs, and salary. The law enforcement agency that initially hired the law enforcement telecommunicator shall be reimbursed for the costs from the time of the law enforcement telecommunicator's initial application until graduation from the Department of Criminal Justice Training, or other training approved by the Kentucky Law Enforcement Council.

(c) The amount of reimbursement authorized by paragraph (b) of this subsection shall be prorated based upon the percentage of time that the law enforcement telecommunicator completed his or her employment contract.

Section 220. KRS 39A.020 is amended to read as follows:

As used in KRS Chapters 39A to 39F, unless the context requires otherwise:

(1) "Adjutant General" means the executive head of the Department of Military Affairs vested with general direction and control authority for the department and the division of emergency management;

(2) "Catastrophe" means a disaster or series of concurrent disasters which adversely affect the entire Commonwealth of Kentucky or a major geographical portion thereof;

(3) "Chief executive officer" means a:

(a) County judge/executive of a county;

(b) Mayor of a consolidated local government;

(c) Mayor of an urban-county government;

(d) Chief executive officer of a charter county government;

(e) Chief executive officer of a unified local government; or

(f) Mayor of a city;

(4) "Comprehensive emergency management program" means the public safety program developed, organized, implemented, administered, maintained, and coordinated by the Division of Emergency Management and local emergency management agencies created pursuant to the provisions of KRS Chapters 39A to 39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency, declared emergency, disaster, or catastrophe, or threat of any of those, as contemplated in KRS 39A.010 or as defined in this section;

~~(5)(4)~~ "Coordination" means having and exercising primary state or local executive branch oversight for the purpose of organizing, planning, and implementing;

~~(6)(5)~~ "County" means a county, urban-county government, charter county government, consolidated local government, or unified local government;

(7) "Declared emergency" means any incident or situation declared to be an emergency by executive order of the Governor, or a county judge/executive, or a mayor, or the chief executive of other local governments in the Commonwealth pursuant to the provisions of KRS Chapters 39A to 39F;

~~(8)(6)~~ "Director" means the director of the Division of Emergency Management of the Department of Military Affairs;

~~(9)(7)~~ "Disaster" means any incident or situation declared as such by executive order of the Governor, or the President of the United States, pursuant to federal law;

~~(10)~~~~(8)~~ "Disaster and emergency response" means the performance of all emergency functions, other than war-related functions for which military forces are primarily responsible, including, but not limited to: direction and control, incident command, or management; communications; fire protection services; police services; medical and health services; ambulance services; rescue; search and rescue or recovery; urban search and rescue; engineering; alerting and warning services; resource management; public works services; nuclear, chemical, biological, or other hazardous material or substance monitoring, containment, decontamination, neutralization, and disposal; emergency worker protection, site safety, site operations and response planning; evacuation of persons; emergency welfare services; emergency transportation; physical plant protection; temporary restoration of public utility services; emergency lighting and power services; emergency public information; incident investigation, hazards analysis, and damage assessment; and other functions related to effective reaction to a disaster or emergency or catastrophe, or the potential, threatened, or impending threat of any disaster or emergency or catastrophe, together with all other activities necessary or incidental to the preparation for and carrying out of the functions set out in this subsection;

~~(11)~~~~(9)~~ "Division" means the Division of Emergency Management of the Department of Military Affairs;

~~(12)~~~~(10)~~ "Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment and which a local emergency response agency determines is beyond its capabilities;

~~(13)~~~~(11)~~ "Integrated emergency management system" means the unified and multidisciplinary disaster and emergency response infrastructure developed in the Commonwealth, under the coordination of the division, using methods which align state or local administrative, organizational, and operational resources, to accomplish the mission, goals, and objectives of the comprehensive emergency management program of the Commonwealth;

~~(14)~~~~(12)~~ "Local disaster and emergency services organization" means that organization of public and private entities developed to carry out the multiagency disaster and emergency response of a city, county, urban-county or charter county pursuant to KRS Chapters 39A to 39F;

~~(15)~~~~(13)~~ "Local emergency management agency" means the agency created, operated, and maintained to coordinate the local comprehensive emergency management program and disaster and emergency response of a city, county, and urban-county or charter county government pursuant to KRS Chapters 39A to 39F;

~~(16)~~~~(14)~~ "Local emergency management director" or "Local director" means the executive head of the local emergency management agency, appointed pursuant to the provisions of KRS Chapters 39A to 39F;

~~(17)~~~~(15)~~ "State emergency management agency" means the Division of Emergency Management of the Department of Military Affairs; and

~~(18)~~~~(16)~~ "State emergency management director" means the director of the Division of Emergency Management.

Section 3. KRS 39B.010 is amended to read as follows:

(1) Each city, county, urban-county or charter county government *or counties acting jointly under the provisions of subsection (2)(b) of this section,* of this Commonwealth shall create, support, and maintain a local emergency management agency, which shall serve the public safety interest of the local government within the territorial boundaries of the city, ~~for~~ county, *or counties* where the agency is created. Each local emergency management agency shall develop,

implement, and maintain a local comprehensive emergency management program, including a local emergency operations plan, in accordance with the provisions of KRS Chapters 39A to 39F. The local emergency management agency shall be an integral component of the statewide integrated emergency management system of this Commonwealth, and shall fully comply with all applicable provisions of KRS Chapters 39A to 39F, the comprehensive emergency management program requirements of the Commonwealth, the provisions of the Kentucky Emergency Operations Plan, and all administrative regulations promulgated by the Division of Emergency Management.

(2) ***(a)*** Each county government, and the urban-county, charter county, or city governments located within the territorial boundaries of a county, are encouraged to jointly create a single, unified local emergency management agency to serve all local governments collectively, and therefore may, in lieu of creating individual and separate local agencies, jointly create a single, unified local emergency management agency, provided the agency and its program:

~~1.(a)~~ Fully comply with all the provisions of KRS Chapters 39A to 39F;

~~2.(b)~~ Comply with the Interlocal Cooperation Act or locally adopted memorandums of agreement, as necessary and appropriate; and

~~3.(c)~~ Are determined to be in compliance with all requirements of KRS Chapters 39A to 39F by the director of the Division of Emergency Management.

(b) Two (2) or more contiguous county governments, including or excluding the cities within their jurisdictions, may jointly create a single, unified local emergency management agency to serve the counties and participating cities within those counties collectively, and therefore may, in lieu of creating individual and separate local agencies, jointly create a single, unified local emergency management agency, provided the agency and its program meet the requirements set out in subparagraphs 1. to 3. of paragraph (a) of this subsection.

(3) The local emergency management agency shall be an organizational unit of the executive branch of city, county, ~~and~~ urban-county, ~~for~~ charter county government, ***or counties acting jointly under the provisions of subsection (2)(b) of this section*** and shall have primary jurisdiction, responsibility, and authority for all matters pertaining to the local comprehensive emergency management program and, under the general supervision of the local emergency management director, shall serve as a direct function of the office of county judge/executive or mayor. ***In the case of counties acting jointly pursuant to this section, the supervision of the agency shall be set out by agreement or ordinance approved by the legislative body of each county.*** In accordance with the policies of the state-local finance officer, a separate emergency management agency fund account shall be designated and included in the city, county, and urban-county or charter county budget ledgers, and all financial matters of a local emergency management agency, involving funds provided through the Division of Emergency Management, shall be handled through the county, urban-county, or charter county treasury and financial system.

(4) City, county, and urban-county or charter county governments may use the term "emergency management" in a manner or form appropriate to constitute and designate the official name of the local emergency management agency established pursuant to this chapter, except for any use of the term "Division of Emergency Management" specified to constitute and designate the official name of the state emergency management agency pursuant to KRS 39A.030. The term "emergency management" may be used in a manner or form appropriate to constitute and designate the official name of a local emergency management council, or the statewide association of emergency management agencies or personnel, but shall not be utilized by, assigned to, or otherwise specified by any local unit, agency, or department, or any political subdivision of the Commonwealth in any manner or form to constitute or designate the official name of the local unit, agency, or department, or political subdivision, except as authorized in this subsection.

(5) All local emergency management agencies or local disaster and emergency services organizations in the Commonwealth, and the local directors, and members of each, shall, for all purposes, be under the direction of the director of the division, and of the Governor when the latter deems that action necessary.

Section 4. KRS 39B.020 is amended to read as follows:

(1) The county judge/executive of each county, the mayor of each city, consolidated local government, or urban-county government, or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.

(2) Except in a county containing a consolidated local government, in lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the territorial boundaries of the same county, *or two (2) or more counties acting jointly under the provisions of Section 3 of this Act* may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support the joint appointment of a single local director in each territorial county, *or counties acting jointly*, of the Commonwealth. The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

(3) A local emergency management director appointed under the provisions of subsection (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:

(a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.

(b) The local director shall be a resident of the Commonwealth of Kentucky and ~~at the~~ county served.

(c) The local director shall hold no partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.

(d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and to attend meetings convened by the appointing authority or the area manager of the division.

1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.

2. If the local director is also a full-time or part-time employee of a city, county, urban-county government, or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.

3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.

4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.

(4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

(5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS 39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

Section 5. KRS 39B.030 is amended to read as follows:

A local emergency management director, appointed pursuant to this chapter, shall have the following powers, authorities, rights, and duties:

(1) To represent the county judge/executive, *or chief executive officers in the case of counties acting jointly under Section 3 of this Act,* or mayor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the county, *counties acting jointly under Section 3 of this Act,* urban-county, charter county, or the county *or counties acting jointly* and the cities therein, unless there is a local director appointed for a city in accordance with this chapter, who represents that city;

(2) To be the executive head and chief administrative officer of the local emergency management agency, and to direct, control, supervise, and manage, the development, preparation, organization, administration, operation, implementation, and maintenance of the comprehensive emergency management program of the county, *counties acting jointly under Section 3 of this Act,* urban-county government, charter county government, or the county *or counties acting jointly* and the cities therein, and to coordinate all local disaster and emergency response, unless there is a local director appointed for a city in accordance with this chapter, who represents that city;

(3) To develop and maintain a local emergency operations plan entitled "county emergency operations plan," *or "joint counties emergency operations plan,"* or "city emergency operations plan," or "city/county emergency operations plan," as appropriate, the provisions of which shall establish the organizational structure to be utilized by local government to manage disaster and

emergency response, and set forth the policies, procedures, and guidelines for the coordination of all disaster and emergency response in the county and all the cities therein for an emergency, declared emergency, disaster, or catastrophe. The local emergency operations plan shall be developed consistent with the appropriate provisions of the Kentucky emergency operations plan, the provisions of KRS Chapters 39A to 39F, planning guidance issued by the division, and administrative regulations promulgated by the division. The local emergency operations plan shall be officially adopted by signed executive order of the county judge/executive or mayor, **or in the case of counties acting jointly under Section 3 of this Act, by all chief executive officers of the participating counties.** The executive order shall be filed with the office of the clerk for the local jurisdiction and a copy placed in the local emergency operations plan. A copy of the local emergency operations plan, and all revisions or updates thereto, shall be submitted by the local director to the Division of Emergency Management for concurrence review and reference. The local emergency operations plan shall be a component of the integrated emergency management system of the Commonwealth, and subject to the Kentucky Emergency Operations Plan, shall be the primary local strategic planning document governing the coordination of all disaster and emergency response in the county, **counties acting jointly under Section 3 of this Act,** city, or the county **or counties acting jointly** and the cities therein, and shall be applicable to, utilized by, and adhered to by, all local emergency response departments, agencies, and officials of the local disaster and emergency services organization in the county and the cities therein. The local emergency operations plan shall be updated not less than annually;

(4) To establish and maintain a local disaster and emergency services organization in accordance with the local emergency operations plan, the Kentucky Emergency Operations Plan, and the provisions of KRS 39B.050;

(5) To notify the county judge/executive, mayor, or executive authority of other local governments and the Division of Emergency Management immediately of the occurrence, or threatened or impending occurrence, of any emergency or disaster, and recommend any emergency actions which should be executed;

(6) To be the chief advisor to, and the primary on-scene representative of, the county judge/executive, mayor, or executive authority of other local governments in the event of occurrence of any emergency, declared emergency, disaster, or catastrophe within the local jurisdiction;

(7) (a) To respond and have full access to the scenes of an emergency, declared emergency, disaster, or catastrophe to immediately investigate, analyze, or assess the seriousness of all situations; to coordinate the establishment and operation of a local incident command or management system; to execute the local emergency operations plan, as appropriate; to activate the local emergency operations center or on-scene command post; to convene meetings, gather information, conduct briefings, and to notify the division of on-going response actions; and fully expedite and coordinate the disaster and emergency response of all local public and private agencies, or to have a staff assistant do so;

(b) At a declared emergency or declared disaster, at the direction of the county judge/executive or mayor, as appropriate, to take or direct immediate actions to protect public safety; however, this paragraph shall not preclude a local director from providing any assistance that he is requested to, and is able to, provide at any emergency.

(8) To act as an official representative of the division in emergency situations when specifically requested by the director;

(9) To report directly to the county judge/executive, mayor, or executive authority of other local governments, act in an official policy-making capacity when carrying out the duties of local

emergency management director, and exercise full signatory authority for execution of all contracts, agreements, or other official documents pertaining to the administration and operation of the local emergency management agency and program;

(10) To direct or supervise all paid or volunteer emergency management staff assistants or other local emergency management agency workers, and all operating units or personnel officially appointed and affiliated with the local disaster and emergency services organization pursuant to KRS 39B.070;

(11) To prepare and submit regular or scheduled program activity reports to the area manager of the division and local chief executives;

(12) To execute bond, if appropriate, in the amount determined by the appointing authorities;

(13) Annually, by the first day of March, to prepare and submit a program budget request to the county judge/executive and mayor;

(14) Annually, by the fifteenth day of July, to prepare and submit to the division a locally-approved, fiscal year program paper and budget request;

(15) To perform all administrative, organizational, or operational tasks required by the provisions of this chapter, or administrative regulations, or program guidance pertaining thereto;

(16) To be a registered member of the Kentucky Emergency Management Association or other professional emergency management organization; and

(17) To carry out all other emergency management-related duties as required by KRS Chapters 39A to 39F, administrative regulations, or local orders or ordinances.

Section 6. KRS 39B.050 is amended to read as follows:

(1) Each local emergency management director shall establish and maintain a local disaster and emergency services organization in accordance with a city or county or city/county *or joint counties* emergency operations plan required pursuant to KRS Chapters 39A to 39F. The local disaster and emergency services organization shall be comprised of the following members and participants:

(a) The county judge/executive, *or chief executive officers when counties are acting jointly under Section 3 of this Act*, and mayors, or the chief executive of other local governments;

(b) Elected legislative officials of the county and cities;

(c) The local emergency management director and all local emergency management agency staff members and workers, or emergency management agency-supervised operating units or personnel;

(d) All regular or volunteer public safety or emergency services department heads or agency chiefs in the cities or county;

(e) All regular or volunteer public safety or emergency services department or agency members in the cities or county;

(f) All districts, corporations, public agencies, groups, or political subdivisions of the state and special districts within the county or the cities thereof, which are organized under the laws of the Commonwealth to provide an emergency response service or related function in the interest of public safety; and

(g) All private sector personnel, agencies, organizations, companies, businesses, or individuals and citizens who agree to provide their assets, resources, talents, services, or supplies in aid to the local disaster and emergency services organization of the cities or county in accordance with the approved local emergency operations plan of the city, county, *or counties acting jointly under Section 3 of this Act*, urban-county government, or charter county government.

(2) The local disaster and emergency services organization shall have responsibility for the performance of all disaster and emergency response functions contemplated in KRS 39A.010,

39A.020, or 39A.030 and as listed or assigned in the city, county, **or counties acting jointly under Section 3 of this Act,** or city/county emergency operations plan, except that the Division of Forestry of the Energy and Environment Cabinet shall have primary responsibility for directing the implementation of all forest fire emergency responses consistent with KRS Chapter 149. Disaster and emergency response functions may be assigned within the local disaster and emergency services organization to existing agencies and organizations, public and private. It shall not be necessary for the local disaster and emergency services organization to create, provide, or maintain an additional or auxiliary capability for any existing function or service deemed adequate to local needs.

(3) The local disaster and emergency services organization shall be the primary disaster and emergency response force of city, county, **or counties acting jointly under Section 3 of this Act,** urban-county government, or charter county government and an organizational component of the integrated emergency management system of the Commonwealth. The local emergency management director shall have primary responsibility for the coordination of all disaster and emergency response of the local disaster and emergency services organization for an emergency, declared emergency, disaster, or catastrophe.

Section 7. KRS 39B.060 is amended to read as follows:

(1) The city or county, **joint county when counties are acting jointly under Section 3 of this Act,** or city/county emergency operations plan developed pursuant to the provisions of KRS Chapters 39A to 39F shall include adequate provisions or procedures to assess, mitigate, prepare for, respond to, and recover from all disaster or emergency incidents contemplated by KRS 39A.010, 39A.020, or 39A.030 and shall provide for all functions contemplated by these sections.

(2) The local emergency operations plan shall be submitted by the local director to the county judge/executive, **or chief executive officers of each participating county when counties are acting jointly under Section 3 of this Act,** mayor, or chief executive of other local governments immediately following each regular election for these offices, for approval and adoption by the local chief executives through issuance of an executive order pursuant to the provisions of KRS Chapters 39A to 39F.

(3) In the event of a conflict between a city emergency operations plan and a county emergency operations plan and decisions made thereunder:

(a) The decision made pursuant to the county plan shall prevail if the incident, its consequences, or the threat thereof, extend beyond the boundaries of the city;

(b) The decision made pursuant to the city plan shall prevail if the incident, its consequences, or the threat of the incident, do not extend beyond the boundaries of the city; and

(c) The same precedence shall govern plans of urban-counties and charter counties.

(4) The joint plan established by counties acting jointly pursuant to Section 3 of this Act shall incorporate a joint decision-making process whereby the chief executive officers, or their designees, use the integrated emergency management system and the unified incident command system set out in KRS 39A.230 to deal with any incident.

HOUSE BILL 448 DESTRUCTION OF CROPS ON FARMS BY WILDLIFE

Section 1. KRS 150.170 is amended to read as follows:

KRS 150.170 Requirement of hunting, fishing, trapping or guide's license – Exceptions – Killing of wildlife causing damage – **Reporting requirements** – Reciprocity with adjoining states – Exception for active duty or reserve members on military property.

- (1) Except as provided in the following subsections of this section, and subject to administrative regulations promulgated under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.
- (2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.
- (3) A person under twelve (12) years of age shall be exempt from being required to obtain a sport hunting or sport trapping license as required by this chapter.
- (4) The resident owner of farmlands, his or her spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children residing upon these farmlands shall have the same privilege.
- (5) Residents or nonresidents observing and participating in field trials, training exercises, or other competitions as authorized by the department may observe and participate without obtaining a hunting or guide's license so long as game is not taken.
- (6) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.
- (7) ~~Resident~~ Landowners, their spouses, ~~for~~ dependent children, **or their designee who must be approved by the commissioner** who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license and may do so during periods other than the open season for the particular species **without a tag and dispose of the carcass on-site**. Tenants, **their spouses**, ~~or~~ their dependent children ~~residing upon the lands~~, or other persons approved by the commissioner, shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to a ~~the department or the resident~~ conservation officer **within twenty-four (24) hours of the kill**. ~~for the proper disposition of the carcass.~~ Individuals wishing to **transport** ~~use~~ the carcass **from the property upon which it was killed** shall contact personnel of the department to request a disposal tag or other **authorization** ~~authorizing document~~. **Inedible parts from wildlife taken under the authorization of this section shall not be utilized for any purpose and shall be destroyed or left afield. The department shall promulgate regulations establishing procedures for the designee appointment process, including request and approval deadlines.**
- (8) If a reciprocal agreement is entered into by the commissioner, with the approval of the commission, and promulgated as an administrative regulation by the department and similar action is taken by the appropriate authority in Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.
- (9) Any member of the Kentucky Army or Air National Guard, active duty or Reserve Component, in any branch in the United States Armed Forces that is based in the Commonwealth

of Kentucky, shall have the right to take fish or hunt on any military property belonging to the Commonwealth without procuring any sport hunting or sport fishing license.

HOUSE BILL 475 LOCAL OPTION ELECTIONS (ALCOHOLIC BEVERAGES)

Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

* * * * *

(55) "State park" means a state park that has a:

(a) Nine (9) or eighteen (18) hole golf course; or

(b) Full-service lodge and dining room, and may include a nine (9) or eighteen (18) hole golf course;

REMAINING DEFINITIONS RENUMBERED

SECTION 2. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

KRS 242.022 Local option election for limited sales of alcoholic beverages by the drink at qualifying state park.

(1) (a) To promote economic development and tourism in any dry or moist county or city in which a state park is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in a city or county precinct where the state park's qualifying lodge or golf course is located, notwithstanding any other provision of the Kentucky Revised Statutes.

(b) A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at the state park located in (name of precinct)?'".

(2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020; 242.030(1), (2), and (5); 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at the state park located in the (name of precinct)?".

(3) When a majority of the votes cast at an election held under subsections (1) and (2) of this section are in favor of establishing moist territory, the entire state park shall become moist in the manner specified in KRS 242.200.

Section 3. KRS 243.082 is amended to read as follows:

KRS 243.082 Nonquota type 1 or NQ1 retail drink license – Issuance to a convention center or convention hotel complex, horse racetrack, automobile racetrack, railroad system, ~~or a commercial~~ airline system or charter flight system, or state park – Varying restrictions for eligible entities.

(1) A "Nonquota type 1" or "NQ1" retail drink license may be issued to an applicant operating as, or in:

(a) A convention center or a convention hotel complex;

- (b) A horse racetrack;
- (c) An automobile racetrack;
- (d) A railroad system;~~or~~
- (e) A commercial airlines system or charter flight system;~~or~~
- (f) A state park.**

(2) (a) The department may issue an NQ1 retail drink license to a railroad company operating a railroad system in the state upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of distilled spirits, wine, and malt beverages.

(b) Notwithstanding KRS Chapter 242, an NQ1 retail drink issued to a railroad system shall authorize the holder to sell distilled spirits, wine, and malt beverages at retail by the drink or by the package upon any train, that includes a dining car, operated by the licensee in the state. Sales shall be made only while the train is in motion. Notwithstanding any other law, holders of such licenses may retail alcoholic beverages in unbroken packages smaller than two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine and may purchase alcoholic beverages from nonresidents.

(3) (a) The department may issue an NQ1 retail drink license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of distilled spirits, wine, or malt beverages, and the license may be renewed annually.

(b) An NQ1 retail drink license issued to a commercial airlines system or charter flight system shall authorize the holder to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, in and out of Kentucky. The license shall authorize the licensee to store distilled spirits, wine, and malt beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.

(4) An NQ1 retail drink license issued to a convention center or convention hotel complex shall authorize the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises of the convention center or hotel. The license shall permit all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses, except that a separate hotel in-room service license shall be required, where applicable. An NQ1 retail drink license issued to a convention center or convention hotel complex license shall not be transferable to other premises. This subsection shall not apply to an NQ1 retail drink license issued to or renewed for a convention center, other than those in a city of the first class or a county containing a city of the first class or a consolidated local government, if the original license was issued prior to July 15, 1998.

(5) An NQ1 retail drink license issued to an automobile racetrack shall authorize the holder to sell distilled spirits, wine, and malt beverages by the drink for consumption on the premises of an automobile racetrack. The license permits all distilled spirits, wine, and malt beverage sales on the premises without additional supplemental licenses.

(6) An NQ1 retail drink license issued to a horse racetrack shall authorize the holder to sell distilled spirits, wine, and malt beverages by the drink for consumption on the premises of a horse racetrack. The license permits all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses.

(7) An NQ1 retail drink license may be issued to any qualifying applicant within a state park meeting the criteria established in KRS 241.010 so long as the state park is located, in whole or in part, within:

(a) Any wet territory; or

(b) Any precinct that has authorized the sale of alcoholic beverages under Section 2 of this Act.

(8) Any licensee holding an NQ1 retail drink license located in a qualifying state park may purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The license shall permit all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses. The licensee shall only purchase distilled spirits, wine, or malt beverages from licensed wholesalers or distributors. The holder of an NQ1 retail drink license under this subsection shall comply with the requirements of KRS 243.250. An NQ1 retail drink license held under this subsection shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package.

Section 4. KRS 243.100 is amended to read as follows:

A natural person shall not become a licensee under KRS 243.020 to 243.670 if he or she:

(1) (a) Has been convicted of any felony until five (5) years have passed from the date of conviction, release from custody or incarceration, parole, or termination of probation, whichever is later;

(b) Has been convicted of any misdemeanor described under KRS 218A.050, 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, or 218A.130 in the two (2) years immediately preceding the application;

(c) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages in the two (2) years immediately preceding the application;

(d) Is under the age of twenty-one (21) years;

(e) Has had any license issued under this statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or

(f) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which his or her application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state, or to persons licensed on March 7, 1938.

(2) A partnership, limited partnership, limited liability company, ~~or~~ corporation, or governmental agency shall not be licensed if:

(a) Each member of the partnership or each of the directors, principal officers, or managers does not qualify under subsection (1)(a), (b), (c), and (d) of this section;

(b) It has had any license issued under this statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or

(c) It is a partnership or corporation, if any member of the partnership or any director, manager, or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale, and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of the later of two (2) years from the date of the revocation or two (2) years from the date of conviction.

(3) The provisions of subsection (1)(a) and (b) shall apply to anyone applying for a new license under this chapter after July 15, 1998, but shall not apply to those who renew a license that was originally issued prior to July 15, 1998, or an application for a supplemental license where the

original license was issued prior to July 15, 1998.